

Public Administration

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The Legislature and Administration

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ADMINISTRATION is the creature, the instrument, not of the Executive, but of the legislature, which is the fount of all administrative authority. There must be an intimate inter-relation between the body which says what is to be done and the body whose business it is to do it, and as the status, authority and competence of this controlling body have the greatest influence upon the work of the body controlled, it may be of interest to consider, very briefly, current criticism of the methods of the controlling body, having regard to its inter-relationship with the body controlled and quite apart, of course, from the bigger constitutional questions now in controversy.

In preliminary, and to clear the air, how far is the conduct of administrative business on what are known as business principles affected by legislative methods? The roots of such an inquiry do not lie very deeply in the past, for, after all, the practice of modern business is very new. It is the creation of our own times. The methods of that interesting administrative authority, Mr. Samuel Pepys, were thought commendable by competent persons in his own day, but they would not win commendation in ours, and, similarly, the methods of a business contemporary of Mr. Pepys have only an antiquarian interest for a man of business now.

Again, parliamentary institutions are the product of forces which, in the complexity of their evolution, could take no account of mere competence in the transaction of business. It would be an unprofitable exercise to attempt to associate such a thing with the later years of the unreformed parliament. To some people it seems, even now, an ignoble thing, almost an impertinence, to tarnish with the associations of business the House of Pym and Hampden. Yet it will be recalled that Pym and Hampden were generally fighting essentially business questions, *e.g.*, were certain collections and certain payments to be made or were they not? Down to within recent memory nobody supposed that Parliament was, or indeed could possibly be, a

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business body. "Why," it would be said, "Parliament levies taxes, votes money, and makes the laws. Parliament has nothing to do with business!"

But the House of Commons is a living thing and contains within itself curious faculties of reflection as well as faculties of adaptation and absorption. It may or may not reflect accurately the views, on a political issue, of those who have elected its members, but it does reflect, infallibly, their ways of thought and their preoccupations. So, with the increase of the mercantile and financial interest, it has gradually taken on something of the character of a business assembly; but a business assembly where it is not possible to obtain consideration for a proposal strictly and entirely on its business merits; a business assembly transacting business with all the handicaps that Policy imposes on Administration. Conclusions reached in such an atmosphere—often by way of accommodation and compromise—are not always the conclusions that pure wisdom, working *in vacuo* would reach. The legislature and the executive, with questions of policy in the foreground, cannot pay much attention to what administration—with the interests not so much of the party as of the taxpayer, at heart—regards as the business view of any controverted question. The policy, *e.g.*, of "Safeguarding," will be settled, not by business people on the clear issue whether it is sound business or not, but by people whose views are coloured by political predilection and the exigencies of the political situation, by antecedent political commitments and by other factors which are mostly absent from the purview of pure administration.

When the policy has been settled by the legislature and administration has a free hand, with subsidiary delegations to a reasonable extent, the duty of administration to work the Act on business lines will generally be carried out. There is no particular difficulty. As Bagehot said, the only true theory of transacting business is a simple matter which has been known for hundreds of years—though Bagehot never stated it anywhere—and the best modern practice in every sphere of business is defined and available. So the answer to our preliminary question seems to be that, however the purely business view may have been modified by the circumstances in which the conclusion has been arrived at, whatever political issues or foreign considerations may have intruded into the settlement, however unbusinesslike the settlement itself may be, however many obstacles may have to be surmounted, there is never any excuse for carrying out the administration in other than an entirely businesslike way within the limitations set by the legislature. If the legislature determines that green spectacles are to be worn by all women over forty, there is no reason whatever why the administrative arrangements

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to give effect to the measure should not be, beyond question, business-like.

It is rather gratuitous to suppose, as survivors of an earlier generation sometimes seem to do, that parliamentary government as an institution is sacrosanct and superior to criticism. Nowadays it would appear that few communities in Europe outside the ambit of its traditions and influence, cherish any illusions about it. There is a growing literature of parliamentary criticism—how great it is in amount may be gauged by the voluminous references in that remarkable study by Dr. W. Y. Elliott, of Harvard, "*The Pragmatic Revolt in Politics*"—and, of course, we are aware of the repercussions of what Dr. Elliott describes as, "the attack now taking formidable shape in practice as well as theory, over a great part of Europe, against the constitutional and democratic state" (p. VII). Would it be too much to say that the menace to the authority of Parliament, indeed to its existence in the form in which we know it, is more formidable now than it has been in the lifetime of any of us; that after enjoying a long period of public confidence, the institution, once again in its chequered history, is on its defence and at any time may have to attempt to demonstrate its superiority to an alternative, and the arguments in favour of that alternative will not be disposed of by any reference to tradition. If representative institutions cannot reform themselves it is conceivable that democracy may be forced to seek other means of expression. "Even English memory," says Dr. Elliott, "holds a Cromwell and may hold another soon" (p. 345). Democracy cannot be expected to imperil its future by acquiescing in the unaltered continuance of forms of government which have not kept step with the changes that have come with the years. It would be a disaster were the popular mind to arrive at the conclusion that the inability of the House of Commons to emancipate itself from the shackles of tradition precluded the attainment of what are regarded as democratic ideals—that democracy cannot afford to take the risk of identifying itself with an unreformed House of Commons. But Mr. H. G. Wells goes so far as to say that, "democracy is entering upon a phase of revision in which parliaments and parliamentary bodies and political life as we know it to-day, are destined to disappear" ("*Democracy under Revision*," p. 29). General Smuts recently told a Cambridge audience that, "In spite of the continuance of the old parliamentary forms, their authority is no longer what it was" ("*Africa and Some World Problems*," p. 161), and General Hertzog, the present Prime Minister of the Union, told the House of Assembly last Session that he does not think "there can be much doubt that we are on the eve of the collapse of the parliamentary system. When I speak of the eve,

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then I, of course, use the term in a historical sense and it may take another 50 years or more, but it will not be very long now." (Hansard: No. 7, 1930, Col. 1525.)

It may be admitted that these views are not reflected in the expository handbooks and the specialist literature. That literature, of course, is largely the product of persons who are interested, professionally, in the subject, or who have obtained training in minor political office. The writers approach the subject with a sort of prostrate reverence. They convey an impression of entire satisfaction with things as they are. They catalogue curious survivals with the same pious care for detail as a palæontologist describing a fossil. Any affirmation that there is an affinity between business principle and administrative principle need not be sought. For them, the suggestion that Parliament is a business body and should conduct its business accordingly, would be a profanation of the holy mysteries. They provoke the reflection that Bagehot's admirable quality of detachment would have been ruined had he ever had the misfortune to be Financial Secretary to the Treasury! Possibly current distrust is merely a phase, but, anyway, as "Al Cartwright" says in his brilliant essay on the subject—more brilliant perhaps in diagnosis than prophylaxis—"it is enough to observe and record the symptoms of a malady which is everywhere attacking Parliamentary Government, and which, if unchecked, may kill it even in those lands where it claims to be immortal" ("Rods and Axes," p. 172). It may be that the alternative, dictatorship, is also merely a phase, for, though the dictator is the man of the hour, the crucial moment when his hour passes is the testing time for the system he has established. But, whatever the future may hold, these are disquieting and critical years. Would it not be the highest wisdom, therefore, for those of us who are interested—and who is not?—in the maintenance of this strong bulwark of freedom and liberty, to press for the removal of the more objectionable of the accretions and anachronisms that are associated with it? Surely no more opportune time could be chosen to make such changes, in practical matters, as are demonstrably beneficial. Says Bagehot, echoing Burke, "institutions are shifting things, to be tried by and adjusted to the shifting conditions of a mutable world . . . in fact politics are but a piece of business" (Third letter on the Coup d'Etat). High constitutional questions like the position of the House of Lords or the Second Ballot and its alternatives, need not detain us, but we may concern ourselves, perhaps, with a discussion of some secondary questions, of great interest administratively, arising out of the transaction of certain classes of parliamentary business.

The history of the long struggle by which the Commons secured

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the control of expenditure, how they "wrenched it, inch and ell and all, slowly from the King" (and, having obtained it, ceased for long periods to value it very highly) is written in the text-books and any retrospect here would scarcely be in place. A casual survey, however, of the recent literature will support the view that the evolutionary process, so evident in the history of the House of Commons, seems to have been arrested—and arrested at a comparatively recent stage—so far as concerns the ability of the House to deal with national expenditure in any detail. It may seem odd that an Assembly so strongly tinged with business as the House of the past half-century, should have arrived at no businesslike method of dealing with one of its principal functions, the critical consideration of the Annual Estimates of Expenditure. The House seems to have found the task within its capacity until about the beginning of the present century, since when detailed criticism has become steadily less and less effective until, to-day, the House has ceased, for practical purposes, to exercise any detailed control worth mentioning. Obviously, the body which, fifty years ago, scrutinized with fitful competence, expenditure amounting to eighty-two millions, cannot scrutinize expenditure of eight hundred and forty odd millions. Administration is deeply interested in this aspect of the work of the House of Commons for the bye-products of ineffectiveness in a controlling body disturb the whole organisation. Colonel Durell's wonderful compilation, "*Parliamentary Grants*" (Gieve), provides many instances of the embarrassing futilities and liturgical niceties which this fictitious "control" develops, the dead hand and the outworn tradition handicapping effective administration at every turn.

The good House of Commons man—generally quite incapable of a detached view—deplores the inability of the House to deal with the Estimates, but, instead of recognizing that the day of detailed criticism has passed away, he casts around for expedients which will convert a fiction into a reality. He is faced with two difficulties. One is the practice which forbids the modification of any figure in the Estimates. Sir Herbert Samuel, in his preface to Mr. E. H. Davenport's book, "*Parliament and the Taxpayer*," says roundly that, "it is many years since a single item has been altered by the House of Commons on financial grounds. So far as direct control of expenditure is concerned, the Estimates might as well not be submitted to Parliament at all" (p. XIII). The second difficulty is a very real one. It is common cause that under democratic government there are far more inducements to propose expenditure than there are to effect economies, the House therefore, as an engine for the enforcement of economies, not being worth very much at the best. As Bagehot said: "The House of Commons—now that it is

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the true sovereign, and appoints the real Executive—has long ceased to be the checking, sparing, economical body it once was" ("The English Constitution," Paul, p. 136).

But it is thought by some that the first difficulty, the inability to modify, might be got over by agreement, and that the second, the inability to criticise, might be met if the duty were delegated to Committees of the House. This latter expedient may be examined in some detail because it presents peculiar features from both the administrative and the constitutional point of view. The Select Committee on National Expenditure, which was set up in 1917, submitted, it will be recalled, some thirteen Reports and did much useful work in bringing to light all sorts of irregularities from which the administration of any country immersed in a great struggle could not very well be free. The Committee directed attention to instances of defective Treasury control, inefficient management of various undertakings, absence of co-ordination in buying, lack of proper accounts and so forth, mostly attributable, it should be carefully noted, to the circumstances of the time. The Committee's animadversions, which drew attention to many unbusinesslike and improper features of War administration, were, no doubt, of some public service. To secure more effective control of expenditure for the future, they proposed that, at the beginning of each Session of Parliament, two Standing Committees on Estimates should be appointed, their province to be limited to enquiry and report upon the annual Supply Estimates, Supplementary Estimates, and Money Resolutions for Bills. They were not to interfere where policy was concerned nor were they to propose increased expenditure.

All matters with which administration is concerned involve expense; much or little, sooner or latter, money is spent. That money which, incidentally, is trust money from any point of view, is provided for specific purposes and the House of Commons, through the Committee of Public Accounts and their spearhead, the Comptroller and Auditor-General, a Parliamentary Officer, investigates the expenditure after the event and ascertains that the money has been properly applied for the purposes for which it was voted. But *post-mortem* examination of that kind, it was argued, should not preclude a searching examination of the financial proposals of the Executive on their presentation to Parliament. For this purpose it was proposed to set up these Standing Committees. It was claimed that this would lead to more businesslike administration; that most elective bodies of importance have a finance committee which reports upon proposals involving expenditure; that there was no reason why Parliament should be an exception and that Continental practice in this respect is sounder. The House of Commons has been impressed

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by these arguments, and by the appointment of one Committee has embarked upon the experiment with, it would seem, some misgivings.

In criticism it may be said that it is not the business of the House of Commons to undertake the work of the Executive. The weight of Sir Courtney Ilbert's authority is behind the statement that "Parliament does not govern. Parliamentary government does not mean government by Parliament. Once, and once only, in the course of English history has the House of Commons attempted to administer the affairs of the country through executive committees, and the precedent set by the Long Parliament has not been followed" ("Parliament," p. 41). Setting up a Committee of this kind to criticise the proposals of the Executive is narrowly approaching it. Compare Mill's view, stated in a House of Commons speech quoted by Sir Sidney Low ("Governance of England," p. 68), that "when a popular body knows what it is fit for and what it is unfit for, it will more and more understand that it is not its business to administer but that it is its business to see that the administration is done by proper persons and to keep them to their duties. I hope it will be more and more felt that the duty of this House is to put the right persons on the Treasury Bench and when there to keep them to their work. People will more value the importance of this principle the longer they have experience of it." And it may be mentioned here that in the 'nineties when the approval of the Parliament of Natal was sought to the adoption of proposals conferring upon the Public Accounts Committee of the House of Assembly certain functions more or less similar to those conferred upon the Estimates Committee, the Rt. Hon. Harry Escombe was responsible for a forcible criticism of the principle involved. As he said: "if the House of Assembly once allows this Committee to encroach on the region of the Executive, there must be necessary collision and trouble hereafter. Because no self-respecting Ministry will for a single moment allow their responsibility to be interfered with by a Committee of this character" ("Escombe's Speeches," edited by J. T. Henderson, p. 451).

Obviously, a Committee or Committees of the kind, if they are to justify their existence at all, will actively interfere with administration, even if matters of policy continue to be withheld from their purview; interference is implicit in any statement of their duties that may be devised.

"In truth," says Bagehot, "when a Cabinet is made the sole executive, it follows it must have the sole financial charge, for all action costs money, all policy depends on money, and it is in adjusting the relative goodness of action and policies that the executive is employed" ("The English Constitution," Paul, p. 138). Ministers must remain responsible. The fact that their financial

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proposals have to be submitted to a Committee will tend to relieve them of responsibility. It will be said, when something goes wrong, "Ministers were not perfectly certain that it was the proper course to follow but the Committee approved of it," and that will be quite a good answer. If the Committee set up by the House for the purpose lent the weight of their approval, Ministers can scarcely be blamed for the miscarriage.

In any administration deriving its practice from British traditions, no financial provision is made on the Estimates without careful investigation. Consider the nature of the questions which the sponsors of any project have satisfactorily to answer. Is it really necessary? If it is, how have we done without it for so long, and why need it be provided at this juncture? What is done elsewhere? Are new developments or pending legislation likely to affect it? What will it cost and where is the money to come from? And who will go short? If those responsible can satisfy their Treasury on these heads is it likely that a Parliamentary Committee will find grounds for dissatisfaction?

It is suggested that the Committee will be advised by an expert, to be called the "Examiner of Estimates," in much the same way as the Public Accounts Committee is assisted by the Comptroller and Auditor-General, and it is modestly admitted by supporters of the Estimates Committee that this official may want "one or more" assistants. Where an Admirable Crichton, with critical ability so much superior to that available to the Treasury and in a position to encounter Departments on their own ground, is to be obtained is hard to say. In practice, the scheme would probably involve the employment of an officer and a staff drawn from each of the larger Departments, whose duty it would be to criticise the schedules prepared by their former colleagues. To the detailed and careful scrutiny which the Estimates had already undergone would be super-added this criticism by persons more or less out of touch with the Departments, criticism to which replies would have to be prepared at great expense of time and labour. Time is important, for, if the Examiner's criticism of the Estimates is to be of any value, there must be delay, and delay between the date of their preparation and the date of their submission must cause the most serious inconvenience to the Executive. When the observations of the Committee's staff have been duly prepared, scrutinized by the Examiner, submitted to the Committee for endorsement and replied to by the Departments, much water will have passed under administrative bridges.

And what end is all this machinery designed to serve? To enable Parliament to assert effective control over expenditure in detail?

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As has been pointed out, there may have been some vestigial remains of such control in Mr. Gladstone's first Parliament, but its day has long since passed away. Everybody recognizes it but the partisans: "The centre of gravity in English government," says Dr. Robson, of the London School of Economics, "has shifted from legislation to administration during the past half-century, and the hegemony of the executive, whether we like it or not, is an accomplished fact" ("Justice and Administrative Law," p. 33). Parliament never, in practice, exerted substantial and effective control over the detail expenditure of the country any more than over the detail administration of the country, and could not now do it if it tried and did nothing else. The control now resides, in practice, in the Executive, where it properly should reside. The desirability of perpetuating fictions is more than doubtful. Even the Celestial Empire is deflating theirs, and, in these days, spectacular figures, "block" votes and diversified forms of "closure" combine to deprive proceedings in Supply of serious meaning and actuality.

It is, nevertheless, perfectly clear that any acknowledgment that the magnitude of the sums involved has rendered impracticable any detailed control by a House of seven hundred members does not affect in the slightest the fundamental and inalienable right to grant or refuse supply. Policies may be examined, principles may be criticised, Ministers may be put upon their defence, and, of course, it will always be perfectly competent for the critics to select an issue on any Vote and turn the Government out if they can. The power of the purse remains unimpaired. And the disappearance of this fiction of detailed control would be perfectly in harmony with the popular conception of the House of Commons as an organism containing within itself the power of adaptation. Adaptability is a condition of healthy industrial life. The history of large-scale industry is a history of incessant and often revolutionary change. Any industry that loses the faculty of adaptability decays. Why should the House of Commons not face the facts rather than, by futile devices, seek to secure exemption from a natural law? Surely it would be better for them to deal with their fictions while they may, not when they must.

The parallel with industry may be pursued a little further. If the detail expenditure of an industrial organization were scrutinized and debated in advance and in detail by the shareholders, would the organization be likely to prosper, especially if, as a result of such discussions, no item of the Board's proposals was ever modified save on some red-letter occasion? Would it not be thought that the energies of the shareholders might be better employed? In theory perhaps they control the expenditure of the organization which they

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own, but only in theory, and disaster would follow were it sought to realize the theory in practice.

The establishment of an Estimates Committee has to support it no analogy from industry. It is precisely as if shareholders, having a Board to transact the business of the Company, were to proceed annually to the election of a shareholders' committee to supervise the proceedings of the Board. The analogy clearly points to the Cabinet, or a committee of the Cabinet on the South African or Canadian model, as the appropriate body to scrutinize the Estimates and dispose of questions in issue between the Chancellor of the Exchequer and his colleagues. They can obtain all the facts, they are in possession of the views of the Departments and the results of the prior examination in detail by the Treasury, they are responsible for the policy and, if things go wrong, they are there to take the blame. So good a House of Commons man as Mr. J. A. Spender says in his book "The Public Life" (Vol. II, p. 10)—"where, as in the United States or in France, the financial proposals of the Government are liable to be revised by Budget Commissions or Committees, before which the Government is only a witness, and Budgets may be returned to Governments in forms which they scarcely recognize, the responsibility for balancing the national accounts becomes dangerously attenuated. The Government blames its critics, its critics blame the Government, and deficits left by disallowed taxes or new schemes of expenditure are made up by borrowings which everybody professes to deplore." Mill's impatience with the assumption that the House of Commons employs its time usefully in the detail criticism of legislation, may be recalled here. In "Representative Government" (Chap. V), with an unusual access of animation, he enlarges upon the futility of attempting legislation when, as he says, "the House of Commons will not forgo the precious privilege of tinkering it with their clumsy hands," and, *a fortiori*, is it to be supposed that their "tinkering" with the details of expenditure is likely to be more useful? Is the House of Commons an authority on economy? In the abstract, the House worships at that shrine, but, propose a definite and specific saving, and see what will happen. The domestic expenditure of the House itself is designed upon an extravagant scale and offers no examples of the stern economy inculcated upon the Departments. Is it the spectre of the interference of the Crown that is apprehended? That has only to be stated to be rejected. Is it the extravagance of the Executive? No Executive has been as extravagant as Parliament wished it to be!

But, as the Machinery of Government Committee said—"On the whole experience seems to show that the interests of the taxpayer cannot be left to the spending Departments," (Cd. 9230—1918).

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That is a true saying. The appeals to experience and the weight of evidence were hardly necessary. The interests of the taxpayer plainly and obviously cannot be left to the spending Departments in these difficult and anxious days, anxious and difficult, not for Britain only, but for Europe. In the years that are before us, finance will condition everything. No doubt a point will be reached some time or other when remediable social conditions cannot be remedied because the various forms of capital can be taxed no further, but until this point is reached, finance will be the overpowering preoccupation of the Executive and the administrative machine in every European country, and its importance may revive interest in the English custom of vesting in the Prime Minister of the day merely formal functions, plus a salary, as First Lord of the Treasury. At any rate the supervision and control of expenditure will become the supreme task of administration—administration advisedly, for the Prime Minister or the Executive or the House of Commons can only deal with principles, formal and systematic criticism in detail is beyond any of them. Incidentally, the control of expenditure is not a happy phrase: it does not describe the duty adequately, and it is the constituent of so many "slogans" and is so often used as a fetish or a shibboleth that something better should be got; but accepting it as meaning the wisest use of the money and the resources available and the adjustment of means to serve that end, the control of expenditure presupposes some controlling body. It may be said by the ingenuous that the necessity for control is over-emphasized; that if the Cabinet has decided that expenditure is not to exceed a certain globular figure, there should be no difficulty in adhering to it. If the demands of the departments exceed that figure, their requisitions should be reduced by the appropriate percentage. That is quite simple, but overlooks the tendencies of human nature and the innate depravity of the official mind! The following year most of the requisitions may be found to have been increased with a view to prospective reductions!

For this reason alone, apart from others even more obvious, there must exist a rationing authority, some agency, subordinate to the Executive, which will examine and criticise and generally co-ordinate the activities of the departments and act as the financial adviser of the Executive in a very wide sphere, carrying out generally the functions we are accustomed to associate with the Treasury, investigating and applying standards of comparison, bringing everything possible to the test of cost accounting, the ton mile, the passenger mile, the cost per 1,000 transactions and so forth. "In this great organon of exact measurement, you have the really scientific instrument of controlling expenditure." So thought that very eminent

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Treasury Official, Mr. Henry Higgs, writing in 1917. ("National Economy," p. 77.) But there is more in it than the control of expenditure. It seems certain, with the recognition of the impotence of the House of Commons in such matters, that the functions of the natural advisers of the Executive will develop and that the Treasury of the future will be a somewhat different body, exercising very wide powers of direction and control. Lowell, writing in 1908, seems to have thought that the degree of Treasury predominance and authority depends upon the circumstances of the time. If the desire for economy is predominant, the Treasury will be predominant, but not otherwise ("Government of England," Vol. I, p. 130). On this assumption, the Treasury of the future will occupy an almost impregnable position.

It is contended that the Treasury, during the War, did not succeed in rising to the height of its responsibilities. The fact that the staff under war conditions was increased by a very unimpressive percentage, has lent the greatest weight to criticism, and it probably did not require the assault, on the Treasury organization, of the Select Committee on National Expenditure, 1917-18, to drive it home. It was not a time when the unexceptionably orthodox views on financial control enunciated, somewhat unctuously, by the Select Committee could have been expected to obtain the fullest recognition. And, of course, the Select Committee found much to condemn, but, instead of mumbling the remainder biscuit of parliamentary control of expenditure in detail and recommending the setting up of these futilities, the Estimates Committees, if they had set themselves to attempt the outline of an organization capable of handling the tremendous administrative and financial problems which confront Great Britain, they would have deserved better of their generation. But they took the wrong turning and left the problem very much where they found it.

Treasury reorganizations there have been since, but the mists of the future lie more heavily over the Treasury than elsewhere. It is not an easy matter to try and pierce them, and to speculate upon the functions which this great office of control will exercise in the future. The portents for the persistence of democratic government in the forms familiar to us are none too promising. Very much depends upon the wise direction of expenditure. There seems little doubt that the conception of the Treasury as a Department of State, that and nothing more, will not outlast our generation. In the course of its natural development, it will probably become the General Staff of the Administration, with a more fluid establishment, not only taking men from other Departments as the Select Committee of 1917-18 (second report of Session 1917), and Sir William Beveridge ("The

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Public Service in War and Peace," p. 31) suggested, but freely seconding them and with the most extensive powers of initiative, revision and control.

It may conceivably develop much further that spirit of inquiry which informs so much of its work now. The Treasury of the future may lift its eyes from the scrutiny of departmental proposals to ascertain not only why certain proposals are made but why others are not made; why co-ordination is not more freely practised, why advantage is not taken of particular developments in industry, why lines of research are not followed up. No one can read Lord Milner ("Questions of the Hour," Chap. V) on the development of the dependent Empire, without being impressed by the lost opportunities of judicious capital expenditure which would not only have returned an ample reward in interest and in trade, but would have fructified in goodwill. The neglect of many of the Crown Colonies and the economic backwardness of some of them, compared with the possessions of other Powers, is a responsibility, in the last resort, of the House of Commons, but, had there been a Treasury strong enough to resist the violent demands of the clamorous and give consideration to the interests of all, many of these territories might be socially and economically much more advanced.

However distasteful the admission may be to Parliamentarians—and I trust we are all Parliamentarians—however the fact may be camouflaged, Parliament cannot profitably handle these questions though, constitutionally, the responsibility is a parliamentary responsibility. Nor can the Executive give them the detailed examination and attention they demand. Their importance is often in inverse ratio to the strength of the Departments concerned with them. It would scarcely be contended that, *e.g.*, the Colonial Office, save when in the charge of a Minister of the calibre of Joseph Chamberlain, carries sufficient weight of metal to obtain what it wants in competition with, *e.g.*, the War Office. There remains only a strengthened Treasury with the Chancellor of the Exchequer—almost normally now the strongest Minister in the Cabinet—behind it as the reconciling and finally decisive factor in public expenditure.

Development on these lines seems highly probable, and it may be claimed that it will be a development on business principles. We are approaching a period when parliamentary practice in business matters will have to approximate much more closely to business practice; when parliamentary traditions which do not lend themselves to such an adaptation will have to disappear. Alternatively, if there should be any revival of obscurantist activity—which is hardly thinkable in view of the altered composition of the electorate—then the persistence of parliamentary institutions will be rendered a little more doubtful.

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The flexibility of the relations between the legislature and administration is conditioned a good deal by House of Commons procedure. To specify precisely how the burden of administration is weighted by the archaic forms of the House is a task for a series of specialists, but to well-wishers of Parliamentary government, the present position must be disquieting. The best survey, from the point of view of the reformer, remains that of Mr. E. H. Davenport in "Parliament and the Taxpayer." Sir Courtney Ilbert describes the book as "controversial" and the presentation of the case is frankly *ex parte*—Mr. Davenport holding a brief for the recommendations of the Select Committee on National Expenditure, 1918—and very few instructed readers will find themselves in agreement with him all through—he is, for instance a strong partisan of the Estimates Committee—but he puts his case with so much argumentative ability and states the conclusions at which he has arrived with such clearness and precision, that the book may fairly be said to stand in a class by itself. It is not necessary to quote freely, for the book is readily accessible, but one or two citations may be made. Mr. Davenport points out that, since 1832, "there have been some fifteen Committees, besides those Committees devoted to Private Bill procedure, set up to reform and simplify the procedure of the House. Of the ninety-five standing orders which these Committees have passed down, only three of those dealing with finance date from the eighteenth century. The majority are earlier." pp. 125-6. "Or again, consider all the rules of procedure that originated in the seventeenth and early eighteenth centuries. It was in those days considered the first duty of all patriotic Parliament men to delay, postpone or obstruct the royal demands for money, and their rules of procedure were ingeniously devised with that end in view. Yet time is still wasted at Westminster to-day by conforming to these ancient rules albeit there is no such distrust, financially of the executive power, but, on the contrary, an advantage in dealing expeditiously with the increasing volume of Government financial business.

"If the whole financial system in Parliament is out of keeping with modern needs and conditions, it is not to be expected that members of Parliament will pursue with any enthusiasm the science of national economy. The deadweight of historical procedure does not encourage live financial criticism." p. 127.

The parliamentary mechanism has been improved but little since Mr. Davenport wrote in 1918, and the plain and obvious thing has not been done. The adjustment of parliamentary forms and formalities to modern conditions remains one of the most urgent needs of our time. The last century reformed Parliament from the outside.

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The task of this generation would seem the more humdrum one of reforming Parliament from the inside.

In the higher organisms the presence is suspected of some gland which is there specifically to promote their efficiency as organisms. The difficulty with the House of Commons is the absence of anything of the kind. Apart from Select Committees on private business and upon limited aspects of public business, there has been no Select Committee on procedure since Sir Thomas Whittaker's, in 1913-14. (Campion, "Procedure," p. 31.) It is nobody's business to urge improvements. Radical changes are only introduced under the stress of violent controversy. The House—when it can detach itself from party considerations—seems sometimes more concerned with what is of archaeological interest in its procedure than in the improvement of the procedure. Surely there should be set up, as of course, each Session a Select Committee charged with the duty, in consultation with the numerous authorities of the House, of recommending desirable amendments, and it should be made a point of honour to find time for the consideration of the Reports. The argument that parliamentary time is never available is not convincing when adherence to tradition wastes so much of it. A reform of the practice whereby Bills are jettisoned at the close of a Session, instead of their being carried forward for consideration in the following Session at the stage reached previously, would release much parliamentary time.

Mr. Davenport is, of course, primarily interested in expenditure and his analysis, indicative of some of the financial handicaps imposed upon administration by the methods of the House, is of great interest. The evidence tendered in support of his plea for a revision of the form of the Estimates indicates how the task of administration would be facilitated were the House to cause this to be undertaken. It is rather anomalous that such a body as the House of Commons with such a history in matters of finance should acquiesce in the presentation of the Estimates in a form in which no one but a specialist can understand or, at any rate, dissect them. Reform was advocated by the Select Committee on National Expenditure in 1918, but it lags.

Finance apart, the existing order interferes with effective administration in many directions. Take the difficulties with amending and what is known, generally, as non-contentious legislation. It may be years before a simple amending measure, raising no issue of principle or controversy but promoted by a Department for purely administrative reasons, reaches the Statute Book. It is quite customary for judges and journalists to criticise, with severity, what is called delegated legislation, and you are familiar with the constant attribution to administration of designs upon the prerogatives of

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Parliament and the functions of the judiciary. The Lord Chief Justice on various occasions has spoken his mind, without apparent restraint, on the subject. Sir Sidney Low in a primer recently published ("The British Constitution," p. 78), repeats with some measure of approval, the phrases usually employed. Premising that "such experiments as those of the Soviets in Russia and the Fascismo in Italy are at least a warning that democratic parliamentarism may yet be severely tested," Sir Sidney goes on to say that—"Democracy, like every other political method has its dangers . . . the encroachment of administration on the authority of Parliament, the growing power of the bureaucracy and its assumption of legislative and quasi-judicial functions, are symptoms and tendencies which need to be watched and controlled."

The wide currency which this kind of criticism has obtained is due, not to the elements of truth in it, but to the fact that the triple vow of silence, poverty and obedience imposes restraints upon administration which do not shackle its critics. Much of what is said, much of this criticism, carries its own refutation. Consider Sir Sidney Low's typical phrases—"the encroachment of the administration on the authority of Parliament." Obviously administration cannot encroach on the authority of Parliament without the willing assent of Parliament; and again, "its assumption of legislative and quasi-judicial functions." Obviously these cannot be assumed. They must be conferred. They can only be conferred by Parliament. The work has to be done. If current methods of managing parliamentary business oblige Parliament to delegate freely, perhaps not always wisely, is administration blameworthy?

But, it is urged, clauses conferring unduly extensive powers are deftly inserted in draft legislation and slip through the meshes of the parliamentary net. Could a harsher thing be said by a critic of parliamentary institutions? What a commentary it is on the efficacy of the elaborate procedure with which the House protects itself! If provisions of such importance can reach the Statute Book unperceived, is criticism of parliamentary methods not justified?

There is issued with the parliamentary papers a weekly List of Statutory Rules and Order which, says Mr. Campion, "either require the approval of Parliament or allow an opportunity for the expression of its disapproval by Parliament, together with the date on which each was presented to Parliament and the period of time during which it is open to a Member to move a motion for the purpose of disapproving" ("Procedure," p. 66). It is also stated that the List is not circulated but available to Members who desire it, from which the inference would seem to be warranted that, under existing conditions, not much parliamentary interest is taken in it.

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Administration has been driven to develop the Statutory Rule and Order system, and the admirable and dispassionate statement of the position in the last chapter of Dr. Robson's "Justice and Administrative Law," referred to earlier, will exhibit it. Though this occasion does not offer an opportunity for a discussion of the subject at length, it may be said that, to the difficulty of securing the passage through the House of Commons of amending legislation, the increasing use of this expedient is partly due. Plainly, a department charged with the duty of administering an intricate piece of legislation cannot wait for years for essential amendments to pass the House of Commons.

It is not asserted that the development of this system and the lengths to which Departments sometimes carry it are wholly due to these delays. There are, of course, other factors, the new interest of the legislature in schemes of social betterment and so forth, which have made machinery of the kind essential, but some of the developments deplored by Lord Hewart are directly due to the absence of any method of expediting the passage of non-contentious legislation. It is not that the House is reluctant to pass such legislation; it is the forms and traditions of the House that offer the impediment, not the House itself. The House, it is asserted with much vehemence in the controversy now proceeding, confers far too generous a delegation upon the Departments, and, indeed, when one contrasts the extraordinary readiness of the House to surrender the law-making power in detail, with the extraordinary reluctance to surrender the spending power in detail, one despairs of relating one's facts to the Universe! Of course, national institutions are the homes of secular anomalies and contradictions and vestigial relics of all sorts, memorials of institutional development through the centuries and of great value as such, but there should be some readiness to recognize that their antiquarian and ritualistic interest is a poor reason for their preservation if they impair, seriously, the usefulness of the institution. The practice of business, the practice of public administration, the methods of science, are constantly under revision, constantly registering improvement, but the House of Commons retains the procedure which, as has been said, it used when disputing with Kings. There is no activity of government in which, in our time, less progress has been made than in the management of parliamentary business. And the wisdom of Bacon's warning remains beyond question, confirmed by experience in every field of human activity—That which Man changeth not for the better, Time changeth for the worse.

When an observer so interested in social movements and the trend of things as the Dean of St. Paul's, says that—"the democratizing of parliament has been fatal to its power and prestige and it is

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becoming increasingly doubtful whether its days are not numbered " ("England," p. 228), one may disagree wholly with the cause assigned—Bagehot's essay on the Unreformed Parliament will fully illustrate that the democratization of Parliament in the last century saved the institution—but one cannot ignore the weight of the Dean's conclusion.

This parliamentary ineffectiveness, in view of the interlacing relationship between legislature and the executive must have constant reactions upon administration, for, though administration has kept step, haltingly perhaps, sometimes timorously, but boldly and courageously on the whole, with the tremendous changes that recent years have brought, yet its wonderful work in the new fields has been done under this severe handicap which operates, as has been shown, in all sorts of practical ways.

Further Thoughts on State Control of Joint Stock Enterprise¹

By A. L. DAKYNS, M.A.

SINCE 1844 there has in this country been a statutory limitation in the size of all partnerships having for purpose "the acquisition of gain." The Registration Act of 1844 limited membership to 25, the Companies Act of 1862 to 20 (10 for banking).

Although the recent Companies Act repeats this provision (in Section 357), making it necessary for all associations with a larger membership to seek incorporation as companies, the clause remains what F. W. Maitland once described it as being—a *caput mortuum*, not because it has proved inoperative but because the economic advantages which flow from incorporation are so considerable and the terms on which it can be obtained are so easy, that there has been no occasion to enforce this part of the law against overgrown partnerships. Even as long ago as 1890 the Registrar's returns showed that of all the companies registered in London during the first six months of that year 26 per cent. had less than 15 members apiece. To-day, when "private" outnumber "public" companies in the proportion of nine to one, those with less than twenty shareholders must be far more numerous than those with more than twenty. Here at least is negative evidence of the popularity of the company form of organization in comparison with the ordinary partnership.

So persistent in the 'nineties was the demand, on the part not only of small firms but of one-man businesses, for incorporation with limited liability, that company lawyers finally abandoned the view entertained by James L.J. (*vide* Baird's case in 1870 and Smith v. Anderson in 1880) that a company is a kind of self-renewing or self-perpetuating partnership. The other view that a company, once incorporated, is "like any other independent person with its rights and liabilities appropriate to itself . . . whatever may have been the ideas and schemes of those who brought it into existence" was finally established in 1897 by the famous decision of the House of Lords in the case of *Saloman v. Saloman & Co. Ltd.*

However logical, however legally sound this decision was (despite the severe shock which it received during the war in the *Daimler*

¹Previous article by Mr. A. L. Dakyns on this subject see PUBLIC ADMINISTRATION, July, 1930, page 259 *et seq.*—EDITOR.

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Company case), there is no doubt that the practice of the City, in evolving types of joint stock company, never contemplated by Parliament when the foundations of modern company law were laid, made it an impossible task for the Court to look behind a company and concern itself with questions of control. Had the House of Lords consented to do so in the Saloman case they would have found no association, stable or fluctuating, of persons, many or few, but only a single Mr. Aron Saloman, sitting in divine loneliness in the office of a company of which to his great advantage he had constituted himself the sole secured creditor as well as being "in control and authority the whole company."

The late Sir Frederick Palmer's apotheosis of the Companies Act of 1862 as the "Magna Carta of co-operative enterprise" (though repeated in the last edition of his well-known work on Company Law) sounds to-day like a piece of empty verbiage. Obviously the description is inapplicable to the one-man company type and is hardly more relevant to the type which numbers its shareholders in thousands. For "co-operation" suggests that shareholders, as members, exercise some degree of joint control over the management of companies through the exercise of voting power. But if, taking one public company with another, one finds that the voting power is—practically in every case—cumulative, according to the number of ordinary shares held, and that no limit is placed on the size of any individual shareholding, then one must admit that the conditions are not favourable to co-operation. And if one finds in some cases that 40 per cent. upwards of the ordinary shares are held by one member or by a compact group one must deny that—formal rights apart—the generality of the members count for anything at all in the constitution of those companies. Equally surprising would it be to find in a State where wealth was unevenly distributed democratic institutions flourishing side by side with a plural voting franchise based exclusively on units of property. Nothing indeed prevents a company from writing into its Articles conditions appropriate to democratic control. But in practice bodies so constituted are to be found among trading corporations registered, not under the Companies Acts but under the Industrial and Provident Societies Acts as Limited Societies.

From the point of view of economic efficiency there is not much to be said for the argument (frequently urged) in favour of restoring to joint stock enterprise the reality of democratic control by the members themselves. If there is an art of public administration so so also is there an art of industrial administration. The less the policy of boards of directors is influenced by the demands of existing shareholders for quick and ample returns surely the better? Who will deny that a frequent cause of company failure has been the adoption

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by directors of a short-sighted policy of slopping away profits in dividends instead of utilizing them for the benefit of the undertaking as a "going concern."

On the other hand President Hoover's observation in 1924 that in certain large-scale industries "a silent revolution is transferring ownership to the public" must be taken with a grain of salt if the words are intended to imply that the stockholders in such industries are becoming so numerous as to be identifiable with "the public." No doubt here as in America an increasingly large number of consumers are interested as shareholders in companies which supply their wants. But most of these consumers are very small shareholders indeed. It may be said with certainty that the demand of the great majority of members of the public for good and cheap service—the best and cheapest possible—is to them of far greater importance financially than the rate of return on their very moderate investments.

In *Von Kommenden Dingen* (translated under the title of *In Days to Come*) the late Dr. Rathenau came to a somewhat similar conclusion as Mr. Hoover about joint stock enterprise; but the basis of his argument was different. To him the result of having a proprietorship which is both sub-divided and mobile is that "the enterprise assumes an independent life as if it belonged to no one; it takes on an objective existence such as in earlier days was embodied in state and church, in a municipal corporation, in the life of a guild or a religious order." Pursuing this line of thought, he looked forward to a day "when the enterprise might come to own itself inasmuch as with the profits it could buy out the individual shareholders." This, he admitted, was not possible under the existing German law (needless to say it is equally impossible under ours). "Nevertheless," he says, "there is no organic contradiction in the complete detachment of ownership from owner."

This reasoning is not convincing. We are asked to believe that "the detachment of property from the possessor leads to a point where the enterprise becomes transformed as it were into a trusteeship or perhaps it would be better to say into an institution resembling the state." But what is meant—in this context—by "detachment of property from the possessor"? Clearly if by "detachment" is meant the sort of "detachment" which occurs when a man dies intestate without next-of-kin and his property reverts to the State, it is plausible to argue that the "detachment" means "transfer to public ownership." This sort of "out-and-out detachment," however, is certainly not what Dr. Rathenau had in mind.

The shareholder and his property (if by that is meant the proprietary interest which he has in the companies in which he has bought shares) are only "detached" from one another in the same

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sense in which landed estates may be said to be detached from an owner who chooses to live abroad and to have them managed for him by an agent. Instances of vicarious ownership—of the administration of property by trustees or by agents on behalf of the real owner are common. But so far has the law been from relaxing in these cases the bonds of ownership that it has if possible confirmed the absentee or the infant owner the more firmly in his possession, because he was incapable of occupying his property and defending for himself his rights (in law or in equity) over it. Similarly the shareholder (for the time being) of shares in a company has rights—clearly defined and safeguarded. Company case-law contains no hint of any abatement of the shareholder's claims to enjoy to the full the fruits of his possession according to the terms on which he has acquired his holdings. Emphatically it is not the proprietary rights of the modern shareholder which have become attenuated. What has become attenuated (as the result of circumstances over which he has little or no control) is his *function* as the ostensible member of a group or "body politic," formed to carry on some particular branch of business enterprise. In short, the law while confirming the modern shareholder in the enjoyment of the fruits of his possession does not burden him with the responsibility of doing anything to produce or gather in those fruits. He has, like the owner of a rent-charge, a proprietary interest in an orchard which he does not—and perhaps could not—cultivate.

Share-holdings have another peculiarity. Shares belong to that large class of incorporeal and intangible goods known to lawyers as *choses-in-action*. A chose-in-action is any legal claim or right (for example, a patent process or a credit) which though it cannot be occupied or possessed (in a physical sense) by the proprietor, may have a market value and be identified by description as the property of this man or that. By the simple expedient of allowing some kind of record to stand for the thing itself a developed system of law has rendered choses-in-action at once immutable and mobile—qualities essential to the smooth working of the institution of private property. Through the record the owner's title to a chose-in-action is fixed; by means of an alteration in that record he can if he so chooses convey the title to another; in some cases the law allows a mere delivery of the document by itself to pass the title, and it thus comes about that some incorporeal chattels (such as banknotes, share-warrants, and bills of exchange) possess in addition the quality of "negotiability."

It has been said that all private property is founded upon legal right or privilege; the chose-in-action introduces us to a kind of property which is privilege *simpliciter*. For where a proprietary right cannot be tested by occupation the power of the State alone remains

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to enforce it and through enforcement to give additional value to the thing owned.

But to argue that a multiplicity of divided and mobile claims of ownership in respect of a business which is administered as a single unit tends to convert the business in question into a species of property which, being neither "private" nor "public," may be said to "own itself" is surely to misinterpret the nature of the phenomenon under observation. *Division* of ownership does not in the case of joint stock enterprise imply a *conflict* of ownership. Nor does a *fluctuation* of ownership imply that the owners are not at any one moment a *definite and ascertainable series* of particular persons.

The fact that the constitution of any typical modern company with a large and fluctuating membership implies a delegation of almost unrestricted power to the directorate does not in fact mean that directors are ever inclined to use that power to defeat the claims of their ordinary shareholders to the whole of the residuary net profits earned. They may take a long view of how that profit should be dealt with in the balance sheet, whereas the present shareholders may take a short view. But if the interests of the shareholders of to-morrow as well as of to-day are considered, the pursuit of a conservative policy by the directorate is likely to prove more remunerative in the long run. A conservative policy does not, however, necessarily imply a policy favourable to the interests of the general public. Wherever—in this industry or that—the interest of the public as consumers is jeopardised or in danger of jeopardy through the satisfaction of the "legitimate claims of the investor as shareholder," the intervention of the State is likely to be called for. The sign that such a moment has arrived is public recognition of the fact that a monopoly of supply is threatened in some corner of the field of private enterprise.

As past history shows, State intervention in these and other circumstances has been a frequent phenomenon in economic affairs. But only in quite modern times—since about 1846—has this intervention emerged in a policy of regulation designed to protect the consumers' pockets and to ensure sufficiency as well as regularity in the supply of some essential service. Moreover, Parliament has usually shown reluctance to anticipate public opinion in driving the wedge of public control deeper into the fabric of private enterprise.

The reason for this reluctance is understandable. State intervention has not seldom proved a disastrous weapon even to those favoured persons or bodies on whose behalf it has been ostensibly wielded. Moreover, the history of the last four centuries in England affords but little support to the view that the ostensible motive of State intervention has been the same as the real motive.

The chronic penury of the Crown throughout the sixteenth and

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seventeenth centuries is a commonplace: but it may be doubted whether full weight is always given by historians to the implications of this penury. The tradition that a constructive policy of economic development (however misguided) was a feature of the more enlightened periods of Tudor and Stuart rule is a tradition which dies hard. The defence for it, as against the view that the mercantile system is in the main to be regarded as a series of doubtful expedients to replenish the Exchequer, is that the two objectives might appear to be attainable by the same route, since the more prosperous England could be made the easier would be the task of raising revenue. This argument, though based on a truism, throws no light on the way in which the mind of a Finance Minister (in the days before the Great Rebellion) would adjust itself to the problem of meeting maturing liabilities out of an inadequate revenue. "Not my fault," such a Minister would reflect, "that the expenditure this last year has been so heavy—I cannot control the greed and ambition of courtiers, far less restrain the King from wasting his substance on unprofitable adventures. The pathways to additional revenue are few and most of them lead through the House of Commons. I must avoid those and explore others. Here at any rate is one promising asset—the power in the Prerogative to confer patents of monopoly and charters of incorporation; for both of these are much in demand." And so, on his advice, the mysterious power is put forth, and patent or charter granted—not at all for the reason recited in the instrument that the Commonweal will be advanced by the planting of a new industry or the opening up of a market—but because the grantee has agreed to pay a certain sum down, or to forgo the payment of a debt or salary owing, or to share with the Crown future profits of a monopoly.

One cannot blame the Minister. As a patriot he may have dreams of an economic policy (State-directed) which will turn the country into a busy hive of industry; but as an administrator he is compelled to advocate a policy which will yield immediate financial results, knowing in his heart that the latter policy is a crude counterfeit of the former. In other words he is compelled to prefer what is expedient in the short run to what is likely to prove (for the Commonweal) better in the long.

The Minister's choice—if one can call that a choice which wears the appearance of a forced option—is the expression of an official outlook or attitude which for convenience one may term "the Exchequer point of view,"—a point of view which one must be careful not to confound with a particular manifestation of it. Demonstrably the financial policy of one period may not be the policy of the next. For example, financial policy in the first quarter of the seventeenth century may be contrasted with financial policy between 1690 and

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1719 or either policy with that pursued during the period when the Bubble Act was in force. It seems probable that large variations in the policy of Government finance are due to constitutional as well as to economic changes. But in spite of these variations—amounting, as between one period and another, almost to the appearance of contradiction—these policies share the identity of a common view-point. A retrospect of the course, curiously irregular, which joint stock enterprise—like a frail craft blown upon by the winds of State—has shaped brings this out. It shows, too, how in some periods other policies appropriate to other points of view have tended to subdue or to counteract the policy of the moment associated with that unique point of view which for three centuries and more has exerted a constant, and at times a predominant, influence on public administration.

Again, it might be maintained that prior to the Bill of Rights England was governed by an unstable dyarchy—the monarch and the House of Commons—the House of Commons controlling one end of the national finances and the monarch the other. Whereas later, and more especially after 1714, control of the spending as well as of the raising of public monies tended to pass into the hands of Ministers responsible to Parliament.

But this division in financial policy does not affect the fundamental point that wherever you have an administrative system you must have somewhere within that system a department which is simply the eye of the whole system turned back upon itself. None of the other departments into which the activities of government may be divided show this unique characteristic—each of them will be concerned in administering some service for the benefit of the general body of citizens or in catering for the needs of this or that section of the population. Each may and probably does have its own special view as to how the public interest may best be served in the matter of trade, health, education, the protection of property and person, and so on. But in each case the point of view is outward looking, whereas the special concern of the central department of finance is the well-being not of the State, conceived as a community or congeries of communities, but of the State, conceived as an organization analogous to a great business house which depends from first to last on the ability of its directors to keep it solvent, and to improve its credit.

The above distinction may seem to the reader so obvious or so familiar as hardly to be worth stressing. But the theory of it is by no means easily to be extracted from the crude, not to say confused, circumstances of political history. There are several reasons why this should be so.

First, the Treasury point of view which the theory postulates—

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that the whole system of government, local as well as national, must be so administered as to "make both ends meet" and leave over if possible a surplus for the repayment of loan capital is a point of view which does not proclaim itself from the house-tops. For strategic reasons a central Department of Finance tends to shun publicity. It prefers, as in the days of patents of monopoly, to disguise the objects of its policy. On this account its influence on the development of joint stock enterprise, even at those periods when its influence has been most acute, may easily go undetected.

Secondly, the point of view may be overlaid and obscured by another. Under conditions of fairly rigorous Treasury control departmental policy and brought that policy to an abrupt halt—view—the department's own and the Treasury's—a result which may make it difficult for an outside observer to analyse correctly a particular item of policy. Yet occasions have arisen when the Treasury view-point has at a certain moment unmistakably impinged upon a departmental policy and brought that policy to an abrupt halt—immobilising it, as it were, at a certain stage of its career. The Road Fund furnishes a good example. Destined for the purpose of road construction and maintenance this fund was set up as a revolving fund, replenishable out of the annual produce of a tax on certain road users, and for many years it was thus administered, growing larger each year with the automatic increase in the yield of the tax, until one day the Chancellor obtained the consent of Parliament to sweep into the Exchequer all the accretions to the fund above a certain figure.

Moreover, in cases where the commanding position of the Treasury—inter-departmentally—has assured the observance of a single policy it is often possible to discriminate between the point of view of the Treasury and that of a particular department. Take the case of the Post Office. Any State-owned public utility, as Mr. R. G. Hawtrey has pointed out, "is a peculiarly convenient subject for taxation, for the cost of collection is nil." This consideration has counted for much in favour of the policy, adopted here as in most other countries, of administering the postal services at a profit which is carried to the advantage of the general revenues. It requires no great stretch of the imagination to suspect that the Post Office if it were allowed to choose would prefer to pay the costs of production and maintenance of postal services out of revenue earned, and to pass on to the consumer in reduced charges the benefit of surpluses accruing on account of economies effected in administration. Such a policy may not be practical politics to-day. Were it ever adopted one consequence might be to bring the Treasury into conflict with the Post Office at another moment. For cheaper rates might so stimulate demand that

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the Post Office would find it necessary to come to the House of Commons for votes to finance the additional expenditure required to deal with an increased volume of postal traffic. And the Treasury might object. For, as Mr. Hawtrey again notes, even if "the financial problems of Government" were "completely transformed" by the elimination of war, "an enlightened financial policy will demand a careful allocation of the resources of Government among the innumerable purposes to which they might be applied." From the point of view of State-controlled public utility undertakings this statement is of more than passing interest.

A third source of confusion is the failure of successive Chancellors to present the Treasury point of view with anything like consistency. The position of the Chancellor as the responsible head of the Treasury gives him not merely the right but the duty to entertain other view-points besides that of his own department: for, since every scheme, every new proposal has its financial side which must sooner or later be submitted to the Treasury for scrutiny and approval, no colleague can ever complain of the Chancellor meddling in what is not his special concern. It is scarcely surprising that under these circumstances the temptation to an active Chancellor to step outside the strict limits of his portfolio and to sponsor more or less considerable portions of the party programme is great. Yet a system which tends to concentrate in the hands of the same Minister responsibility for the control of expenditure and for initiation of fresh schemes of spending has an obvious element of danger from the point of view of the Treasury. Conversely it may be open to attack from the side of the spending departments.

These elements of danger are increased by the modern practice, or rather the modern revival of an ancient practice, of using revenue policy as a direct means of achieving economic ends. Clearly it is the function of the Treasury and Chancellor to find the money which the Government requires for any purpose which it has in mind and, apart from the dual rôle which it falls to the lot of some Chancellors to play, the financial system is not open to attack. But the same cannot be said for the practice of mixing the functions of spending and getting to the extent of using the latter function as a supplementary aid to attaining the objects of the former. Both in theory and in application the practice may be open to criticism.

Of the practice in operation the so-called mercantile system of the seventeenth and eighteenth centuries furnishes many examples. One instance we have already noticed—the sale or virtual sale of patents of monopoly under the early Stuarts. A later variation of the same system in which the needs of the Exchequer or of the Privy Purse still counted for more real importance than those of trade was the grant

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or renewal of charters of incorporation and monopoly to groups of persons willing to subscribe loans to the Government. After 1719, as public credit became better established, this method of borrowing was gradually superseded by the modern method of direct appeal to the public—a policy which in the eighteenth century had its economic side in the attempts of Government, by means of the Bubble Act and other legislation, to corner the investment market for its own borrowings. Here was a case where the Government in order to protect its own position as a potential borrower tried with some measure of success to check a particular economic development—that of joint stock investment.

A good example of the attempt to achieve by the same instrument two distinct objects—that of revenue and that of protection of native industries is afforded by tariff policy in the eighteenth century. No doubt, then, as in more recent times, the familiar argument of "keep foreign goods out" and "let the foreigner pay the tax" were urged indiscriminately in support of general and special tariffs. But the policy proved unsatisfactory as a source of revenue. The Government found it necessary to supplement the customs by imposing on one commodity after another countervailing excise duties, thereby depriving of protection the home manufacturers of those commodities. It was not however until the days of organised free trade propaganda that there was any widespread realisation of the fact that the same tariff policy cannot, without modifications prejudicial to the one party or the other, be made to serve the interest both of the revenue department and of the home producer.

If the experience of protective tariffs in this country is any guide a serious objection to using a revenue-collecting device for a purpose beyond that of revenue collection is that the public are liable to be deceived as to the total value of the device in question. "Here," says the salesman, "is an article which is useful both for peeling potatoes and for cooking them." It may not be really satisfactory in either use, but on the strength of its specious two-fold serviceability the public buys it.

Most of the policies associated with the Mercantile System wear the same deceptive appearance. And it might be argued that the system fell into discredit not so much because the policy of direct intervention by the State in economic affairs was vicious in principle as because that policy was liable to be warped in a certain direction by the loadstone of the Government's financial necessity.

It is surely no accident that Adam Smith rounds off his critical account of economic systems by an extremely cautious review of the purposes for which public expenditure may be justified and concludes with a damning analysis of the practice of public borrowing. The

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conclusion to which the reader is driven is that as long as it remains the way of Sovereigns to pledge the resources of their subjects for war-like purposes, destructive of the wealth of nations, the wealth producers in all nations stand to gain nothing from a governmental interference which is expensive because it is *maladroit* and *maladroit* because it is "interested." Realist by instinct Adam Smith bases his view of public administration on the study of history and his own experience of political institutions. Clearly his opinion is that Government *ought* to be little more than the defensive mechanism of society, but the picture which he presents of Government in practice is that of a microcosm within the larger cosmos of the nation, having its own ends to serve and its own economic system which, like a parasitic organism, feeds upon the life blood of the larger body.

The above analogy is not to be found in the "Wealth of Nations"; but the thought behind it is implied in the chapters on the Mercantile System, the Expenses of the Sovereign, and Public Debts, no less than in the politico-philosophic background of the whole work. Adam Smith stands unmistakably in the tradition of Hobbes and Locke. He accepts (because it fits in with his observation of human nature) their assumption of a "natural" or pre-social egalitarian environment where men are at liberty to pursue—each his own—economic advantage. Such an environment would contain all that was most essential to economic life, save only an element of stability to make it flourish and endure. Out of this want would arise the necessity for laws and sanctions to guarantee the observance of contracts and the quiet usufruct of property.

At this point one may imagine the historian in Adam Smith becoming restive. His philosophy might explain to him the economic necessity for government, but it threw no light on the way in which organised political groupings had emerged. Why, if Government was an economic necessity, was the economic condition of the mass of the governed always so miserable? The explanation could only be that governments became established and were maintained from motives inimical to natural liberty, such as aggrandisement and love of power and the ostentatious desire of one man or a few to dominate the many.

In the year 1776 the British version of the doctrine of *laissez faire*—like a triple-armoured ship—was launched. Political theory, economic theory, and observation of government in working had each in turn contributed to give it strength. In the form in which Adam Smith presents it the doctrine has a conservative rather than revolutionary tendency. Its purpose is to confirm Government in the exercise of the police function, but to strip away the accretions which the ambition and cupidity of princes or magistrates have added.

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To-day the doctrine wears a battered appearance. The political theory of it lies in the dust. The economic theory finds but little support to-day in face of the impossibility of maintaining an open market in those parts of the productive field where competition has proved ruinously expensive from the point of view not only of the competing firms, but of the public itself. Alone of the three defences the third—which was Adam Smith's more particular contribution—his critique of Government—survives as a warning to those who would fly to the opposite extreme and entrust the economic destinies of a people entirely to the guidance and control of the State.

It matters little to the argument that standards of moral responsibility—among commonwealths—have risen since Adam Smith's time—that Governments are more enlightened and less corrupt, more sensitive to the interests of the whole people, and less attentive to the claims of a particular class or section. The fact remains that Governments are still prone to "bow considerations of plenty to considerations of power" and to engage their nations in fratricidal wars the cost of which must remain for generations to come a burden, in some form or another, on the productive capacity of the nationals of all nations. Apart from war, the preparation for and waging of which are not merely uneconomic but destructive of wealth and man power, Adam Smith would have argued that any national government is constitutionally incapable of furthering by active assistance the true economic interest of its people, since the very boundaries and divisions between that nation and others which the assistance presupposes are uneconomic. If one accepts the premise that every impediment, natural or artificial, to the movement of labour and commodities from any one part of the world to any other is economically disadvantageous it is difficult to deny that the Governments of modern States are not as much disqualified from serving in the capacity of economic agents as any Governments in the past. For—so the argument runs—all Governments are tarred with the same brush: each and all hope and intend to promote the economic welfare of their own countries. But their hope is vain; their intention praiseworthy but foolish. Only by abandoning national standpoints and becoming international or rather cosmopolitan agencies can the heads of States hope to repel the charge that they are working against and not with the grain of the economic interest of their own people.

The above argument has a logical symmetry which arouses suspicion. It is too abstract for mortal things. Those who occupy the seat of government in any State—the type of constitution is irrelevant—are not consistent followers of the—economically speaking—illusory "ideal" of nationalism. Some State activities may be international in scope and intention; others—the greater number—may be strictly

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national. Only an analysis, year by year, of State policy in detail would enable a fair report to be rendered of the economic consequences of Government.

But to neglect the moral of it because the argument is too cut-and-dry or too comprehensive would be a great mistake. The moral is that as long as the National interest stands for an ideal in the mind of Government different from the ideal of the economic interest of the nation (even though rulers and ruled alike fail to recognise the difference), so long will it be necessary for the economist to consider critically the bearings of every item of State activity, legislative or departmental. And at the point of maximum divergence between the two interests (as when the wealth of a nation is laid under contribution to repay moneys borrowed on account of past war expenditure) the economist may well be suspicious of attempts of Government to stimulate the flow of goods and services which it desires to intercept. With the apostles of *laissez faire* he may find it in his heart to cry—*Timeo Danaos et dona ferentes!*

One must admit, however, that the elimination of war, above all, the healing of that running sore in the body politic, public expenditure on account of wars past, present or to come, would materially alter the economic aspect of the State's relations to industry and trade. With the smaller burden of taxation its power of economic injury would be lessened; while its potential power of service by entering on the economic field itself as creditor, investor, or entrepreneur would be increased.

Local Government Finance in Germany

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SYNOPSIS

1. **National and Local Taxation.** 2. **Forms of the "Closed Mixed System":** (a) Direct Levies; (b) The Assignment System; (c) Additional Percentages.
3. **Pre-War Taxation:** (a) Reich and Lands; (b) Lands and Local Authorities.
4. **The Post-War System:** The "Financial Adjustment"; The Distribution of the Sources of Taxation. The Present Financial Adjustment between Reich, Lands, and Local Authorities. **Particulars of the Financial Adjustment:** Income and Corporations Tax; General Turnover Tax, and Companies Tax; Land Purchase Tax; Automobiles Tax; Betting Tax and Stamp Duty; Land Tax; Increment Value Tax; House Rents Tax; Trade Tax.
5. **The Results of the New System.** 6. **Other Sources of Revenue:** Fees and Dues; Surpluses from Business Enterprises; Grants-in-Aid; Taxation of Lower Authorities.
7. **The Financial Resources of the Various Local Authorities.** 8. **Expenditure.** 9. **Summary and Criticism.**

I. *National and Local Taxation.*

German theory distinguishes two main systems of national and local taxation, the "Independent System" (Trennsystem) whereby the various authorities draw their taxes from different sources, and the "Mixed System" (Mischsystem) whereby many sources are shared by different authorities. As regards state and local taxation England possesses what most nearly approximates to an Independent System, but if the financial relations between the local authorities themselves be considered, anything but an Independent System can be said to exist. Most other countries have Mixed Systems in varying degrees and in various forms. The Mixed System itself may be "open" or "closed." If open, then authorities are free to use all available sources in any manner and to any extent. If closed, then the taxation systems of the different authorities are brought into definite relationship. Only in a wealthy country like the U.S.A. can anything approaching an Open Mixed System prevail without totally ruining the national economy. Other countries have to choose between some form of the Closed Mixed System.

Forms of the Closed Mixed System.

(a) Direct Levies.

Higher authorities may tax lower, leaving the latter to satisfy the needs of both by taxation of the individual citizens. This is the system

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which still prevails in Prussia so far as the Provinces and Circles are concerned. According to the Circles and Provincial Revenues Law of 1906, the Provinces and Circles are entitled to cover those expenses not met from other sources of income by precepts on the Circles or Communes as the case may be. Prior to the war, the Reich itself covered that expenditure for which duties and consumption taxes proved insufficient by raising levies from the Lands (*Matrikular-Beitraege*). The advantage of the system, especially in a land of many authorities such as Germany, is that it allows taxes to be raised in a lump sum. It means, however, that the lowest authority has to bear most of the odium of taxation (a complaint frequently raised by the German country communes since the war) and that, even though the levies are imposed according to the ability of the local authorities to pay, yet great inequality of taxation must still occur owing to the different methods of taxation adopted by the various authorities. In pre-war Prussia regulations concerning the relations to be observed between real and personal taxes, though introduced in connection with other matters, did something to mitigate this disadvantage. These regulations have now been abolished but circumstances have forced local taxation into a mould very much more rigid than anything known in Germany before the war. Great variations of method cannot occur because local freedom of taxation has largely disappeared.

(b) The Assignment System.

In exact contrast to this system is that called in Germany the Assignment System (*Ueberweisungssystem*) whereby the central authority raises the most important taxes and, having subtracted what it itself needs, hands over the remainder to the subordinate authorities to be distributed among them according to some standard connected with the tax itself. These taxes, given in Austria the clearer title of Divided Taxes, are not assigned revenues in the English sense, since they are not as a rule assigned for any particular purpose. They are simply taxes which it is thought expedient to raise nationally even if they are used to some extent locally. This system has not the disadvantages of the first but possesses none of its advantages. The taxes are raised on a national basis and the evils which are due to lack of uniformity do not arise. The local authorities are, however, curtailed in their financial freedom. They have no control over what may be a large part of their income, no power of adapting it to local needs and no security that it will remain similar in amount from one year to another. Even if the taxes, or at least some of them, are distributed according to some standard related to need and not according to the amounts raised in the districts (in which

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case they cease to be assigned taxes in the German sense and become general grants, paid, it is true, not from general revenue but from the proceeds of certain taxes only) the adaptation of means to ends follows according to the standard not of the local authorities themselves but of some other body. No other body, they claim, can fitly judge of their needs; such being indeed the inevitable disadvantage also attached to any system of grants-in-aid. In any case, local freedom and responsibility are impaired, though not so far as under a system of grants-in-aid. The system, if highly developed, is only practicable when accompanied by the stipulation that the central authority will not impose fresh functions on local authorities without at the same time making provision for the necessary revenues.

(c) *Additional Percentages* (Zuschlagssystem).

The third and favourite closed system practised in Germany and Austria is that which corresponds most nearly to the open system. Lower authorities are not allowed to raise taxes according to their own methods from sources drawn on by higher authorities but they can make additions to the taxes raised by the latter, or raise taxes themselves according to schedules provided by the higher authorities. Under the old Prussian system the lower authorities could raise additional percentages upon certain state taxes, in particular the state income-tax, while in Bavaria and South Germany the state created certain fictitious units of taxation (fingierte Steuersaetze). Of these the state decided each year how many it would raise leaving the subordinate authorities to make similar decisions. The advantages of the system are numerous. It allows of adaptation to local needs (so far of course as needs can be satisfied locally, a problem which has first become really acute since the war), it preserves local responsibility and allows a more careful examination of the relations between income and expenditure than a system which places control in the hands of a central authority. It prevents the worst evil of the Open Mixed System, that of lack of uniformity in the basis of taxation, while leaving a large amount of freedom and discretion to the local authorities. It has, however certain disadvantages. Taxes from the same source are not always raised in one sum, this leading to administrative waste and inconvenience to the tax-payer. Great inequalities of taxation may moreover occur between different districts, although this is a characteristic not confined to this one system. Any system which allows wide financial autonomy to local bodies must lead to inequality of taxation and is only possible when the sources of revenue are fairly evenly dispersed. Most German states have endeavoured to mitigate the worst evils of inequality by prescribing the maximum additions to be made to the state taxes, but such limits must be placed fairly high if the resources of local authorities are to remain flexible

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and capable of adaptation to local conditions. It is, indeed, extremely difficult to decide on a rational limit. Prussia further prescribed a general relation between real and personal taxes in order to ensure some kind of uniformity and to prevent the exclusive exhaustion of one source rather than another. Both these limitations had, however, to be dropped in favour of the financially weak communes.

A perfect system of Mixed taxation has to answer the following requirements. It must be simple and economical, it must ensure that each authority has command over flexible revenues and that no one source of revenue is exhausted while others equally eligible are left comparatively free.

The history of German taxation is that of transition from an independent system to a mixed system, from an open to a closed mixed system, from the system of additional percentages to that of assigned taxes.

Pre-War Taxation.

(a) Reich and Lands.

With the foundation of the German Empire in 1871 financial relations between the Reich and the Lands were regulated on an "independent" basis, except in so far as this was modified by the levies which the Reich raised directly from the Lands (Matrikularbeiträge). As far as taxation was concerned the Reich imposed Customs and Excise Duties,¹ and taxes on industrial and commercial transactions (Verkehrssteuern). Direct taxes were left to the Lands. The necessity for this was not for one moment doubted. All the main functions of government (apart from naval defence, foreign affairs, and the regulation of foreign trade were still left to the Lands. The Reich claimed Customs and Excise Duties and "transaction" taxes not so much from financial necessity as from fiscal policy, because of their direct reaction on trade and the danger to industrial expansion arising from restrictive duties between the Lands and lack of uniformity in the Excise Duties. The foundation of the Reich had already been preceded by a Customs Union (Zollverein).

In the year 1879, however, the Independent System was already broken through. By the Frankenstein Clause of that year part of the Reich revenue from Customs Duties and the Tobacco Tax were handed over to the Lands. In 1881 and 1887 followed assignments from the Brandy Duty and the Reich Stamp Duty. The reasons for this development were still not economic but political. The Lands did not wish to allow the Reich to become too independent and claimed certain of the Reich revenues. The Reich on the other hand

¹Excise duties are called in Germany "Consumption Taxes" (Verbrauchssteuern).

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would not allow the power of regulation to slip from its hands. Thus originated the Assignment System. Economic factors, however, became increasingly important and led to an attack by the Reich on the financial autonomy of the Lands. With the development of imperial activities the hitherto prevalent system became more and more opposed both to the principles of sound finance and to the actual division of political power. The indirect taxes were exhausted, while in the Lands the direct taxes, in particular the income-tax, could still be kept down. In Prussia the tax on the highest grade of income, 100,000 Marks and over, was no more than 4 per cent., increased in 1909 to 5 per cent. With a maximum addition by the communes of 200 per cent. of the state tax the whole tax could nowhere exceed 15 per cent. This resulted naturally in an extremely regressive system and explains the growing attempts of the Reich to obtain direct taxes and to refuse to undertake anything which would lead to a further extension of the indirect taxes, since these already bore so heavily on the greater and poorer part of the population. In 1906 the Reich claimed the Inheritance Duty (*Erbschaftssteuer*). During the war the difficulties of transference were too great, but, since 1919, there has been no doubt that a socially and economically bearable system could be attained only through regulation by the Reich of the most important sources of taxation.

(b) Lands and Local Authorities.

Within the economy of the Lands all the most important sources of taxation were at first left to the Communes, and to a lesser extent to the Circles, although the State also drew upon them for its own needs and regulated them so as to insure some measure of uniformity. This system still prevails in Bavaria and the South. In Prussia, by the Miquel Reforms of 1893, a certain amount of segregation was introduced together with an attempt to regulate the system upon a basis much more "closed" than that prevailing elsewhere. According to the Reforms, the personal taxes were to be used predominantly by the state, while the real taxes, although still regulated according to fictitious taxes created by the state, were to be left entirely to the communes. As far as the personal taxes could still be used by the communes an attempt was made to regulate their relations to the real taxes.

The Reforms of 1893 were provoked by the tendency, increasing throughout the century, to obtain revenue along the lines of least resistance by means of additional percentages to the state income-tax. The discussions were instigated, however, by the clash between two currents of opinion, individualistic and socialistic, which came to a head at this time. German local government was not born, like the

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English, into an age imbued with individualism and distrust of public bodies, but individualist ideas had grown during the 19th century and their exponents now demanded that taxation for local purposes should be abolished, that in fact every local service no matter what its nature should be run according to the principles of "benefit," the necessary expenses being covered by means of dues and fees. Most of the essentially social services would under these circumstances almost disappear. Socialist opposition resulted in a rather peculiar compromise. The state was to have the personal taxes, which are more representative of ability to pay than the real taxes, while the latter were left to the communes since they were thought to correspond somewhat more to benefit received, real property depending so much for its value upon the activities of the communes themselves. It is somewhat difficult to see why all onerous services should be left to the state as the division suggests, although there is good ground for leaving as many as possible to the central body because of the inequalities of taxation which occur when heavy onerous services are left to local bodies. Such a principle was moreover entirely contrary to the spirit and practice of German local government. The real aim of the law was to divert local taxation from the income-tax to the real taxes, a definitely retrograde step, since the unfairness and shifting incidence of real taxes are notorious. Had the income-tax as a local tax been abolished on account of its impracticability, then the substitution of real taxes would have had some justification. This was the actual course of later events. In 1893, however, the whole machinery of local additions to the income-tax was to be maintained but less use was to be made of it. The law aimed further at encouraging the use of indirect taxes rather than direct, the local authorities being forbidden to resort to direct taxes until all possible indirect ones had been exhausted. The terms direct and indirect have not the same meaning in Germany as in England. Direct taxes are all those which can be assessed according to some definite standard. Indirect taxes are those which cannot be so estimated. The question of incidence is not involved. Many taxes are included under the same heading whichever meaning is attached to the definition but some of the real taxes called in Germany direct would, because of their shifting incidence, be placed in the other category in England. German indirect taxes, however, consisting mainly of licences and taxes on articles of consumption, would still be termed indirect in this country. The attempt to increase the local use of indirect taxes, in view of the great use of such taxes already made by the Reich, was as unsocial as it proved under the circumstances to be impracticable. Indirect taxes did not increase, since they were already largely exhausted by the Reich while another

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Prussian law forbade the taxation of necessities except where such taxes were of very long standing. Instead, the following years saw an increase in the direct taxes although the emphasis was to some extent altered. The Land and Building and Trade Taxes rose while for a time the additions to the Income-Tax fell. No legislation could, however, prevent the income-tax from being the mainstay of local taxation before the war.

Later developments have followed along the lines of the Prussian Communal Revenues Law of 1893, not owing to the application of the principles of benefit and ability to pay but because of financial necessity. In 1919 the income-tax was transferred to the Reich and the power of the Communes to raise additional percentages was abolished. As compensation, the Lands and Communes have been handed back part of the proceeds of the Reich Income- and Corporations Tax together with a portion of the new Reich General Turnover Tax. The main characteristic of the post-war system is indeed not the raising of additional percentages but the reception of assignments from taxes centrally raised.

The Post-War System.

The reasons for the change were both political and economic. Germany is still a federal state, but the political importance of the Reich has greatly increased. Its need has, moreover, increased out of all proportion to its actual political importance as compared with the separate Lands because of the burden of Reparations, which make it absolutely essential that the Reich should have command over large sources of revenue. Reparations may indeed be said to have modified the whole form of German Local Government. Largely owing to them the old financial freedom of the Communes has disappeared. All taxes have to be strained to the uttermost and, in order to secure the best possible use and to prevent exhaustion in any one sphere, it has been thought necessary that the whole taxation system should be co-ordinated under the control of the Reich. This co-ordination has been given the name of the "Financial Adjustment," a term invented since the war when the problem which it embodies first became acute.

The Financial Adjustment (Finanzausgleich).

Before the war the sovereignty of the German States was never seriously questioned. The right of the Communes to self-government was just as secure. Now the division of taxes between the various bodies is regulated largely by the Reich, while neither Lands nor Communes may raise a tax which conflicts with the needs of the Reich, or raise one not so doing without the consent of the Reich. The residual powers which once belonged to the local authorities have

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been transferred to the Reich. It little avails that they still possess large powers of self-government if they have not the revenues to realise them, for freedom depends as much on financial autonomy as on constitutional powers. The new system was first embodied in the State Taxation Law of 30th March, 1920. This was developed by the Financial Adjustment Law of 23rd June, 1923, with its later amendments, and by the Taxation of House Rents Ordinance of 14th February, 1924.

The main ideas of the Financial Adjustment are three. The individual must be protected from over-taxation and the resources of the state must be protected from exhaustion, while that distribution of the sources of taxation and the revenues raised therefrom must be found which best suits the nature of the taxes themselves, some being more fit to be raised centrally, others locally. Further no Finance Adjustment can be satisfactory which does not take into account the revenues other than taxes of the various authorities, nor the activities of the authorities and the duties which they have to perform. It is upon the latter principle that the Reich guarantees never to impose functions on the Lands or local authorities without at the same time making provision for the necessary revenues, a provision which has however, not always been substantiated in fact. The question of further resources has led to numerous disputes between Land and Communal finance departments over fees and dues which affect income tabulation.

The Financial Adjustment is not confined to the Reich and the Lands but extends to the relations between the Lands and the Communal authorities, and to the relations of the Communal authorities one to another.

The Distribution of the Sources of Taxation.

The Reich has retained the Customs and Excise Duties, the taxes on transport and those on business transactions for the reason which first led to its claiming them, namely, their reaction on the trade and migration of the whole community. The exception to the rule lies in the Land Purchase Tax (*Grunderwerbsteuer*) and above all in the Increment Value Tax (*Wertzuwachssteuer*) because in this case the taxable objects are bound to the locality and their value is to a large extent dependent on local activities. On the other hand they too react on trade and industry. This, and the fact that land transactions are not as a rule confined within the limits of one Commune or Circle, makes it desirable that these taxes should be raised on a uniform basis. Accordingly the Reich regulates the basis of the Land Purchase Tax while the Lands are left to control the Increment Value Tax.

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Contention centres round the Direct Taxes. The Real Taxes have by common consent still been left to the Communes, except that the Reich has introduced a new though relatively unimportant General Property Tax for its own use, the idea being that in these taxes the principle of exchange is really at work. They are the payment for local services enhancing the value of property. The system of division between Lands and Communes remains much the same as before the war, except that Prussia has found it necessary to reclaim the Land and Buildings Taxes, now united into one Land Property Tax, although the Communes are still free to make additions to it. The Real Taxes, even when left entirely to the local authorities, are raised in the form of additions to fictitious Reich or State taxes.

The Personal Taxes form the main point of dispute, in particular the Income-Tax. This has been claimed by the Reich on the ground that income cannot be localised, that it is now largely divorced from objects, and that it has in it a national element which specially fits it to be raised centrally. Moreover, if all the claims made by the various authorities on the Income-Tax in 1919 had been admitted, in many cases they would have absorbed the whole income. The Reich does not claim all the proceeds of the Income-Tax, a part being handed back to the Lands and Communes, but although the Reich Income-Tax is higher than the Land and local taxes of pre-war days, a smaller total amount is received by the latter. As compensation the Lands and Communes receive a part of the Reich General Turn-over Tax (Umsatzsteuer). They also have a new House Rents Tax. None of these, however, compensate them for the loss of the Income Tax, which is the most flexible of the Direct Taxes and best suited for development to meet the constantly increasing needs of recent years. The Lands complain that they must fall back on the Real Taxes, hitherto left to the Communes, while the latter complain that in face of growing expenditure they are left with no flexible source of revenue.

The Financial Adjustment limits the local authorities to some extent even with regard to the Indirect Taxes. They are bound to raise an Amusements Tax and at one time a tax on intoxicants was compulsory. The latter has been modified by the Reich and is now retained only in the form of a tax on wine and beer imported from other districts (Law Amending Financial Adjustment Law of 10th August, 1925).

The present Financial Adjustment between Reich, Lands and Local Authorities.

(a) The following taxes are retained exclusively by the Reich.

(1) Customs and Excise Duties.

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- (2) The new tax on Capital Transactions, with the exception of that raised in the form of the Companies Tax.
- (3) Tax on Bills of Exchange.
- (4) Freight Duties.
- (5) The new Property Tax.
- (6) The Inheritance Duty.
- (7) Insurance Tax.
- (8) The Lottery Tax.
- (9) The Land Purchase Tax, the Betting Tax and the Automobiles Tax are raised by the Reich, although they are handed over in their entirety to the Lands, for division between them and the local authorities.
- (b) The following are left to be allotted according to Land Law between the Lands and local authorities.
 - (1) The Land and Trade Taxes.
 - (2) The Increment Value Tax.
 - (3) The Tax on House Rents.
 - (4) The Amusements Tax.
 - (5) The Stamp Duty, and such others as do not conflict with the Reich Taxes and are not forbidden by the Reich.
- (c) The following taxes are raised by the Reich and divided between the Reich, Lands and local authorities.
 - (1) The Income and Corporations Tax.
 - (2) The General Turnover Tax.
 - (3) The Companies Tax.

Particulars of the Financial Adjustment.

(1) The Income and Corporations Tax.

The Income and Corporations Tax which is raised only subsidiarily to the Reich taxes on articles of consumption, is specially regulated by the Income-Tax Law of 1925. Before that date the Reich allotted 90 per cent. to the Lands but now claims 25 per cent. itself. The remaining 75 per cent. is divided among the Lands according to the amounts raised in the Lands themselves with certain modifications in favour of the smaller Lands. The Lands are left free to decide upon the proportion to be allotted to the local authorities but are bound to divide the tax again according to the amounts raised in the separate districts.

In Prussia 55 per cent. of the 75 per cent. handed over by the Reich is retained by the Land.

2½ per cent. is handed severally to the provinces and Country Circles.

2 per cent. is paid into the Land School Account.

38 per cent. is paid to the Communes.

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That is to say, of the whole revenue—

The Reich has	25	per cent.
Prussia	41.25	"
The Provinces and Country Circles	1.875	"
The Communes	...	...	...	...	28.5	"
The Land School Account	...	...	...	...	1.5	"

This is modified by the fact that Prussia gives special grants to the Provincial Land Account amounting to 10 per cent. of her share of the Income-Tax of which 14/15 are retained by the Provinces while 1/15 is handed on to the Country Circles.

According to the summary drawn up by the Thuringian Union of Towns—

Saxony retains	...	...	50	per cent. of the Income-Tax.
Wurttemberg	...	...	33	" " "
Baden	...	...	35	" " "
Thuringia	...	...	55	" " "
Hessen	...	...	40	" " "
Mecklenburg	...	...	17	" " "
Oldenburg	...	...	57	" " "
Bavaria	...	...	—	" " "

The General Turnover Tax.

The General Turnover Tax, which was first introduced after the war, became the most important of the divided taxes from the point of view of the Reich until it was lowered in 1926. At first 1 per cent. of the General Turnover, it was lowered in that year to .75 per cent. In 1925 the Reich share was decreased from 90 per cent. to 70 per cent.

The system of division differs from that of the Income-Tax in that some attempt is made to regulate distribution according to need, $\frac{1}{3}$ being distributed according to the amounts raised in the different Lands, $\frac{2}{3}$ according to population. It is divided among the local authorities according to population and the number of children attending school, thus to some extent taking the place of a subsidiary education grant. The Lands are left to regulate the actual amounts to be allocated to the local authorities.

In Prussia 45 per cent. is retained by the State.

5.5 " goes to the Country Circles.

49.5 " to the Communes.

Of the total revenue the Reich thus has 70 per cent.

Prussia ... 13.55 "

The Country Circles 1.6 "

The Communes 14.85 "

Of the *Companies Tax* 50 per cent. is handed over to the Lands.

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The general principle regulating the division of the assigned taxes, is that the Reich determines the method, leaving the Lands to decide upon the amounts.

The Land Purchase Tax.

The Land Purchase Tax, although nominally left to the Lands, counts as a Reich tax, because it is raised by the Reich according to Reich schedule. Of the revenue the Reich retains 4 per cent. for administrative expenses. The rest is divided among the Lands according to the amount raised in each. Division between the Lands and local authorities is regulated by Land Law, but at least 50 per cent. must be handed over to the local authorities. Prussia hands over the whole to the Town and Country Circles, and further relinquishes her claim to make additions up to 2 per cent. to the Reich tax.

The Reich tax is paid at transfer or at specific intervals. The land is taxed at 3 per cent. of its value, estimated generally on the basis of the Reich Property Tax, regardless of whether the purchase yields a profit or loss to the seller. With the addition of 2 per cent. by the Lands or local authorities the entire tax amounts to 5 per cent. Formerly the addition could amount to 4 per cent., if no Increment Value Tax were raised. This provision was, however, modified by the Law amending the Financial Adjustment Law of 1st April, 1927, since an Increment Value Tax is now compulsory for land purchased between the 30th September, 1918, and the stabilisation of the Mark in 1924.

The Automobiles Tax.

The Automobiles Tax likewise counts as a Reich tax in that it is raised by the Reich, which retains 4 per cent. for administrative purposes. This tax is intended as a substitute for a Roads Grant and is generally left by the Lands to the higher local authorities. In Prussia the Provinces and Berlin receive 72 per cent. and the Town and Country Circles the remaining 24 per cent.

The standard of division is devised with some regard to need. The Lands receive 50 per cent. of their share according to population, and 50 per cent. according to the extent of their territory, this being the old standard of Prussian Grants-in-aid, particularly applicable in this instance.

In Prussia the Provincial share is distributed 50 per cent. according to territory, 50 per cent. according to the size of the roads, Berlin receiving an additional 2 million Marks in advance. The division among the Town and County Circles follows in a very complicated fashion. The Government Districts first receive the local share on the same principle as the Provincial distribution. This is then distri-

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buted among the Town and Land Circles, 50 per cent. according to the size of the roads, 50 per cent. according to population.

The Automobiles Tax was originally intended to be assigned entirely to road building. This purpose has not been fulfilled, much to the dissatisfaction of the road departments.

The Betting Tax (which is confined to racing) is raised by the Reich, which retains the usual 4 per cent. for administrative purposes, transferring the rest to the Lands.

The Stamp Duty is imposed by the Lands.

The Land Tax.

Land and Buildings Taxes were under the old system in most Lands separate. They were almost worthless for the large towns and did not in the least correspond to the ability of the owner to pay. The difficulty of the towns—the adjustment of the taxes so that they should yield an amount increasing automatically with the growth of the towns and the consequent increase in Land and Building values—was later met by the creation of Municipal Land Taxes and of special House Taxes. The Municipal Land Tax was assessed upon the so-called general or market value and ranged from 1 per cent. to 5 per cent. Rural land then received special and favoured treatment under the tax. The House Taxes were often raised according to the "general" value but also often according to the actual yield, regard being paid to the size of the dwellings. House property was reassessed yearly.

The practical disadvantages of such refinements as theory and science demand led to so many technical difficulties and rendered the costs of assessment so great that many towns confined themselves simply to additions to the State Taxes. This is to-day the prevalent method. Prussia, which formerly relinquished the Land and Buildings Taxes in favour of the Communes, has now had to claim them for itself in the form of a general Land Property Tax to which the Communes can make additions up to 200 per cent. They may, by special permission, raise concurrent Land Taxes of their own. The Land Property Tax, which is estimated according to the value of built- and unbuilt-on land (ranging from .10 per cent. to .25 per cent.) also forms the basis for the House Rents Tax.

The Increment Value Tax.

Local taxes on increment land values could already, before the reforms, be raised in the different Lands, *e.g.*, under the Prussian Communal Revenues Act of 1893, the fundamental idea being that at least the greater part of the "unearned increment" on land, due to the activities of the Communes themselves as well as to the growth of population which necessitates the conversion of agricultural into

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building land, should be claimed for the use of the Community. It was hoped further to prevent building land from being held back from the market in order to force up the price. The results have, however, not been all that could be desired in this respect, presumably because the taxes have not been drastic enough.

Many progressive towns introduced Increment Value Taxes of their own, notably the town Frankfurt a/M., one of the earliest to pursue an enlightened land and housing policy. In 1911 the Reich claimed the Increment Value Tax, which was then divided, after the manner typical of the post-war period, between the Reich, Lands and local authorities, the latter being able to make additions to the Reich tax.

Since the war the Reich has relinquished the Increment Value Tax but has made such a tax compulsory for land purchased between the 30th September, 1918, and the stabilisation of the Mark in 1924. This is raised in Prussia by the Town and Country Circles according to Reich principles. 30 per cent of the increment is generally withdrawn in the form of the Increment Value Tax, the actual rates varying between 10 and 40 per cent. When the increment is estimated the difference in the value of the Mark at the time of acquisition and sale has naturally to be taken into account.

The Increment Value Tax, as it now stands, is essentially an inflation tax, imposed to counteract some of the effects of the inflation, which relieved landowners of most of their liabilities. Land acquired before 1918 is generally subject to an extra 2 per cent. Land Purchase Tax in place of the Increment Value Tax. There seems, however, no reason to suppose that as the inflation recedes into the past the Increment Value Tax will be abolished. The time will come for its reform and uniform application to all land. It is indeed a much fairer and more satisfactory tax than the Land Purchase Tax, which is paid whether increment occurs or not.

The House Rents Tax.

A further inflation tax is the House Rents tax, first introduced by Prussia and then in 1924 made compulsory by the Reich under the Emergency Tax Ordinance, in connection with the Stabilisation Law of that year. It was raised by the Lands and shared between the central and local authorities, being the only one of the divided taxes which is a real Land¹ Tax. Originally intended as a temporary measure, it has been retained, although repeatedly altered.

It was planned to serve two purposes. The inflation relieved landowners of most of their burdens in the form of mortgages. Despite the fact that rents were restricted, a tax on house rents was still thought bearable and advisable. Moreover, in the Financial Adjust-

¹ The German States are referred to throughout as "Lands" (Länder).

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ment Law the Reich declared that the welfare, school and police services should be functions of the Land, while according to the same law the Reich, when imposing functions on a subordinate authority, has to make provision for the necessary revenues. The increasing costs of these services obviously necessitated special measures and if the Reich were not to help by means of direct grants revenues had to be provided in some other way. Hence the origin of the House Rents Tax, part of which has to be applied to Housing, the remainder being used for general purposes. At first 10 per cent. was allocated to Housing. This was then altered by the amendments to the Financial Adjustment Law of 1925 and the special House Rents Tax of 1926 to 50 per cent.

In Prussia, according to the law of 1st July, 1926, the House Rents Tax was to equal 1,000 per cent. of the ¹Land Property Tax, amounting to approximately 40 per cent. of the value of house property in 1918 as estimated in the different Lands for the purpose of rent restriction. The percentage was raised on the 27th April, 1927, to 1,200 per cent.

Of the *Housing Quota* the State retains $3/10 = 3/20$ of the total revenue, while the Town and Land Circles receive $7/10 = 7/20$ of the total revenue.

Of the *General Purposes and Welfare Quota* the State retains for general purposes $2/3 = 2/6$ of the total revenue. The remaining $1/3$ is then divided between the State and the local authorities in the ratio 7:3 and is allocated to the Welfare Services.

The larger part of the Housing Quota thus goes to the local authorities, the larger part of the General Purposes and Welfare Quota is retained by the State. The local authorities receive their quotas $3/10$ according to the amount raised in the district, $7/10$ according to population modified by the number of ²Small Pensioners relieved.

The attempts of the Town and Country Circles to gain the whole of the House Rents Tax for housing purposes have not been successful, although the present quota far from satisfies their needs. The Adjustment Fund is criticised not because of its principle but because of the practice by which the distribution is regulated, too large a part, it is maintained, going to the agricultural districts at the expense of the large towns whose needs are the greatest. The Viennese Housing Tax, also originally an inflation tax, can be compared with the German House Rents Tax. This is applied entirely to housing purposes and is paid directly by the tenants, whereas the German House Rents Tax is paid by the owner. Vienna has no scruples about maintaining the tax, which is a highly graded one specially designed

¹Land and buildings are not separately taxed. See Land Property Tax.

²S.P. People who receive small pensions from local authorities as a compensation for loss of property in the inflation.

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to finance the building of dwellings for poor tenants at the expense of the rich.

The Trade Tax.

The most important of the local real taxes is the Trade Tax. This has been left to the Lands, which either allow the local authorities to make additions or, like Prussia, relinquish all claim, merely stipulating that the local authorities must raise their taxes in the form of additions to a fictitious State tax.

The Prussian taxes are raised according to capital and revenue, or to capital and wages, the latter being an expedient adopted during the inflation in order to provide a standard which adapted itself to the rapidly changing value of money. Each part must be approximately equal. If the concern has branches in several Communes, then that one in which the head office is situated has an initial $1/10$ before equal division of the rest, *e.g.*, suppose the fictitious tax to be 1 per cent., then the district in which the head office is situated can make additions to $1/10$ per cent. of the assessed value. If the districts are three in number then each has a further $3/10$ per cent. to which to make additions. Thus the main district has $4/10$ per cent., the others $3/10$ per cent. each.

In 1925 the Prussian tax was regraded as follows. Revenue up to 2,400 Marks was taxed at 1 per cent., the next 1,200 Marks at $1\frac{1}{2}$ per cent., the remainder at 2 per cent. Capital up to 12,000 Marks was taxed at $\frac{1}{3}$ per cent., the remainder at $\frac{1}{2}$ per cent. These figures, it must be remembered, only represent the basis on which the local additional percentages are raised, the aim of the fictitious State tax being to provide uniform assessment and gradation, not uniform percentages for each district.

Trade Taxes according to capital or wages weigh very unevenly on different types of enterprise and have no close relation to ability to pay. They are hence in great disfavour with the business community, some members of which advocate a tax imposed solely according to revenue. Such a tax would indeed cease to be a property tax and would become a revenue tax. There have been long and inconclusive discussions on the advisability of a uniform Reich Trade Tax on revenue. Such a tax has not been introduced, mainly on the grounds that the Reich General Turnover Tax already exists in the form of a tax on gross profits.

The Results of the New System.

The effects of the new system on local taxation can be seen from the following tables,¹ giving a comparison of Municipal Taxes for the years 1913 and 1925.

¹Compiled by the German Union of Towns.

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Tax	Per head of population Reich Marks		Per cent. of total Revenue	
	1913	1925	1913	1925
Income Tax for 1925 and Corporations Tax	21'30	17'25	53'3	28'0
General Turnover Tax	—	3'90	—	6'1
Land and Buildings Tax for 1925, Land Property Tax	9'90	10'50	24'9	16'7
House Rents Tax for financial purposes	—	4'20	—	6'7
Increment Value Tax, for 1925 Land Purchase and Increment Value Taxes	2'00	5'00	5'0	7'9
Trade Tax.. ..	5'00	14'00	12'6	23'2
Amusements Tax	0'70	2'60	1'7	4'1
Drink Tax.. ..	0'50	2'30	1'3	3'6
Dog Tax	0'40	1'50	0'9	2'4
Other Taxes	0'10	0'20	0'3	0'3
From the new regulation of the Financial Adjustment	—	0'60	—	1'0
Total	39'90	63'10	100	100

The House Rents Tax for housing purposes is not included in this table as it is always regarded more in the light of a Reich grant.

The whole emphasis of local taxation has thus been shifted from personal to real taxes, despite the fact that the deficit in the Income-Tax has been to some extent supplemented by the local share of the General Turnover Tax and the General or Finance Quota of the House Rents Tax. Such supplementary taxes have, however, by no means sufficed to counteract the loss of the Income-Tax in view of the greatly increased expenditure of post-war years, which cannot be covered by the local authorities from revenue other than taxes. The Land and Building Taxes (for 1925 the Land Property Tax) have not greatly altered, in fact the actual proportion of these taxes to the whole has decreased by $\frac{1}{3}$, but if the taxation of land through the House Rents Tax be taken into account then land taxation has increased by 50 per cent.. The Trade Tax has been extended to bear the greatest brunt of increased expenditure. Subsidiary taxes have also increased, while a study of municipal budgets shows that the local authorities have been driven more and more to the expedient of indirect taxation through the municipal enterprises.

A study of the revenues derived from taxation by the Town Circles for 1927 and 1928 shows that the personal and real taxes have both risen but that real taxes have risen in greater proportion, despite the attempts of the Government, in Prussia at least, to lower the real taxes by diminishing the fictitious percentages of the State Taxes. The proportions of the divided taxes have been indeed increased but

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not enough to prevent further increase of the real taxes to meet constantly growing expenditure.

This enforced extension of the real taxes accounts for the fact that the Communes have to bear the greatest part of the disapproval directed against the financial reforms. The need of the Reich is well recognised. Reparations payments cannot be disputed. Financial sacrifices have been made by the Lands but it is the lower authorities who, by the inevitable process of shifting, are called upon to sacrifice the most. Expenditure has steadily increased, and the Land and Business Taxes, being the only flexible sources of income left to the Communes, have had to be developed. A comparison of the taxes in the Town Circles (which include all local taxes) with the average Rates raised in England by the local authorities for 1927-28 reveals, however, an interesting fact. The average amount of local taxes collected by German Town Circles in 1927-28 was 79.99 Marks per head of population, excluding the Housing Quota of the House Rents Tax. Of this 16.00 Marks fell to the House Rents Tax, Finance or General Purposes Quota; 14.63 Marks to the Land and Buildings Tax; 20.00 Marks to the Trade Tax; 2.37 Marks to the Increment Value Tax and 3.96 Marks to the Land Purchase Tax, making a total of 56.96 Marks. In England in 1927-28 the average Rates collected from real property were 88.8d. If it be remembered that the taxes in large towns are consistently higher than taxes in small towns and rural districts, the comparison will be even more striking. Real Taxes raised by local authorities in Germany will have to be considerably increased before they reach the British standard. Complaint is, however, justified, if it is still possible to use the Personal Taxes for local purposes.

The increase in Indirect Taxes is also a result of the post-war financial stringency which has effected what the financial theories of 1893 failed to do.

Other Sources of Revenue.

Besides taxes, both direct and indirect, the local authorities obtain revenue in the form of dues and fees, surpluses from public enterprises and grants-in-aid from higher authorities. The latter often raise in addition direct levies from subordinate authorities.

Fees and Dues.

Fees and Dues formerly played the most important part in the revenues of higher local authorities, which were mainly administrative bodies. Of late, however, these communal associations have increasingly participated in business enterprises, so that surpluses from the latter play a larger part than formerly in the composition of their budgets.

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Fees are to be distinguished into two classes, institutional and administrative. According to the Prussian Communal Revenues Law of 1893, Communes and Communal Associations can charge fees for institutions maintained in the public interest. This should happen if such institutions particularly benefit certain classes of people, as far as the *quid pro quo* is not obtained by other means, *e.g.*, through special dues or modifications in taxation. Payment is in general to be exacted so as just to cover the costs of upkeep and administration, including charges for interest and sinking fund, but may be reduced or entirely abolished for poor persons. These conditions do not apply to all educational and cultural institutions (fees may only be charged for secondary schools and polytechnics) to institutions of public health or such as specially benefit the poorer classes. Thus only those services which benefit equally all members and classes of the community are meant to be financed out of general taxation. Where special benefit accrues to certain members or classes, corresponding charges have as far as possible to be made, either by means of special taxation, or by fees and dues. There is nothing, however, to prevent services from being run on an "onerous" principle if the local authorities so desire. They further have complete freedom as to whether they will run their services as business enterprises, in which case tariffs are charged according to general business principles, or whether they choose to designate them public institutions and raise fees and dues.

Administrative fees are charged for the approval and inspection of new buildings and alterations, &c., for the services of inspection rendered by the Order and Fire Police and for official transactions, so far as these are not specifically free of charge, and should not exceed the costs of administration. Transactions in which public interest outweighs private and transactions by word of mouth are both free. Where delegated functions are concerned, only a part of the due goes as a rule into the local coffers. The significance of administrative fees is not great in the larger Communes, police charges, in particular those of the Building Police, forming the largest part.

Dues are raised not for some particular transaction or provision but from such classes of people as most benefit by communal services such as roads and harbours. According to the Prussian Communal Revenues Law of 1893, these dues should be raised in proportion to such benefit, not as a rule so as to cover the whole cost but only that part which it is considered the community should not pay. Sometimes fees and dues overlap, as for instance in the charges towards drainage. The estimation of advantage is so difficult that here again practice by no means comes up to theory.

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Surpluses from Business Enterprises.

German public authorities have always been encouraged to raise taxes indirectly in the form of surpluses from their business enterprises. Since the war the financial need of the local authorities has driven them more and more to this method of supplementing their resources, despite the increasingly large body of opinion which demands that no surpluses should be drawn from such enterprises at all. In a representative industrial town like Magdeburg, the surpluses from municipal enterprises appearing in the budget as general revenue increased from 2,797,325 Marks in 1914 to 8,723,400 Marks in 1927, or from 18.02 per cent. to 25.53 per cent. of the total revenue, excluding grants.

Grants-in-Aid.

The system of grants-in-aid has been little developed in Germany and is indeed viewed with disfavour because of the loss of freedom which it inevitably entails. Those grants which do exist had their origin in the delegation of some State function or in the recognition of an obligation on the part of State or Reich to contribute to some local service; further, in the voluntary aid by higher Communal Association of some institution serving interests other than those of the actual Commune or Association maintaining it. This principle applies specially in the fields of Education and Welfare. Grants are given by the Reich to Welfare and Unemployment, by the Lands to Police and Education. These grants are distributed indirectly through the higher local authorities.

Taxation of Lower Authorities.

The two systems of taxation of lower by higher authorities have already been discussed in the section on closed financial systems.

In a large number of towns examined by the German Union of Towns a comparison of the income derived from the different sources of revenue in the years 1913 and 1925 gave the following results:—

Year	Taxes	Surpluses from Business Under- takings	Revenues from Administrative Sources	Carried over from previous years
A. Marks per head of population				
1913	38'30	5'40	0'70	1'30
1925	62'00	11'40	1'00	1'90
B. Per cent. of Total Revenue				
1913	84'6%	11'7%	1'5%	2'8%
1925	81'2%	15'0%	1'3%	2'5%

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The most significant fact brought to light by the comparison is the increase in the surpluses from business enterprises. This, it should be noticed, is by no means generally due to a corresponding increase in tariffs or turnover but to a cutting down of reserves and of capital expenditure, a factor which cannot but react seriously on the efficiency of the business enterprises.

The Financial Resources of the Various Local Authorities.

German Local Authorities, unlike English, do not all obtain their revenues from the same sources and in the same manner.

In Prussia the Provinces, according to the Circles and Provincial Revenues Law of 1906 (as since amended) obtain their revenues from

1. Fees and Dues.
2. Surpluses from business enterprises. These have increased of recent years.
3. Property.
4. Grants-in-aid, some of which have to be passed on to the Circles.
5. Assigned or divided taxes.
6. The deficit is covered by direct levies on the Circles, according to the amounts of the divided taxes to which they are entitled and to the real taxes raised by the State and Communal authorities within the districts.

The Circles obtain their revenues from—

1. Property in the form of land or capital investments.
2. Grants-in-aid.
3. Fees and Dues.
4. Surpluses from business undertakings.
5. Indirect Taxes.
6. Direct Taxes.
7. Divided Taxes, in place of their former right of making additions to the Income-Tax.
8. The deficit is covered by levies on the Communes, the system being the same as that for provincial levies.

The Provinces raise no taxes but the Circles can raise Indirect and Direct Taxes and they have, since the reforms, also acquired the right of claiming shares of the Communal Indirect Taxes. The main Indirect Taxes (according to German definition) of the Circles are the Dog Tax, the licences for the retailing of alcoholic liquors and the Increment Value Tax. Country Circles have as a rule only one important Direct Tax. Prussia relinquishes her right of making additions to the Reich Land Purchase Tax to the Town and Country Circles, to whom she also hands over her own share of the tax. The Circles may also raise the State percentage of the Trade Tax, but

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cannot, like the Communes, make additions thereto. It must be noticed that present reforms have tended uniformly to strengthen the financial position of the Circles at the expense of the small Communes. The Increment Value Tax and the Land Purchase Tax have both been handed to the Circles while they, and not the Communes, receive the local shares of the House Rents Tax and of the Automobiles Tax, with the result that the smaller Communes have no special tax for the upkeep of their roads or the building of their houses, these being substituted where necessary by grants from the higher authorities.

The Communes draw revenues from the sources enumerated above except that in the place of levies on subordinate authorities we find the Communal Direct Taxes, in particular, the taxes on land, buildings and business enterprises. Town Circles naturally combine all the resources of the Country Circles and Communes except that the direct levies disappear. The small Communes are hard hit by the system of direct levies, since both Provincial and Country Circle levies fall ultimately on them. As they now have no Communal Income-Tax, they are forced to raise these levies in the form of additions to their real taxes, a fact which makes them quite unjustifiably unpopular with the business community. The Country Circles now generally raise their levies by retaining a further part of the divided taxes.

All communal authorities are supposed to raise no taxes until they have obtained as much revenue as possible by means of Fees and Dues and surpluses from business undertakings. Indirect Taxes then take precedence of Direct. In other words, the principle of benefit is pushed to its utmost limit. As pointed out before, however, this stipulation has no great practical importance. The fact that both Circles and Communes can raise Indirect Taxes leads to considerable competition in this sphere. Both Provinces and Circles have the power to modify the distribution of burdens through their financial policy, in that financially weak subordinate authorities, whose activities are yet of importance for the public welfare can receive preferential treatment, both with regard to taxation and the distribution of grants. On the other hand, where certain Circles or Communes specially benefit by the institutions of the higher authorities, these may be more heavily taxed or receive smaller grants. Such special treatment requires the approval of the State (acting through the Government President and his Council).

Expenditure.

Comparisons of pre- and post-war expenditure are rendered difficult by the fact that Communal budgets and statistics are by no means uniform, while the exigencies of post-war years have shifted items from the Ordinary to Extraordinary sections of the budget and

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vice versa. The German budget is divided into two main sections, the "Ordinarium" and the "Extraordinarium." In the first appear those items which recur constantly, in the second such as appear once or at least only at long intervals. Regular payments stand opposite to regular receipts. Hence these divisions of the budget correspond also to the division of services into those financed from taxation and dues, &c., and those financed from loans. The increased expenditure of post-war years together with the increased stringency of regular sources of income would have had the result that many items hitherto counted as regular and financed from general revenue would have been shifted into the Extraordinarium and financed by means of loans. This in some cases has occurred. On the other hand, the home loan market was for some time practically closed to the local authorities, while their issues abroad, because of their effect on the German Foreign Debt and the payment of Reparations, are still to all intents and purposes controlled by the Reichsbank. This has occasioned a movement in the other direction, so that many items which would normally be financed by loans have to be financed out of current revenue. This applies particularly to Housing, to other buildings and to repairs, even sometimes to commercial enterprises. The local authorities are thus restricted on all sides.

The following table¹ gives a comparison of the so-called "Finance Need" between the different services in 1913 and 1925. The Finance Need is that part of expenditure which is not covered by income from the services themselves, *i.e.*, onerous expenditure:—

	Expenditure per head of population		Percent. of total Expenditure	
	1913	1925	1913	1915
General Administration	8.30 RM	10.10 RM	18.3	13.3
Police	2.90 "	4.20 "	6.4	5.5
Building	3.90 "	7.40 "	8.5	9.7
Education	15.80 "	19.70 "	34.6	25.8
	1.2 "	3.00 "	2.5	3.9
Welfare	5.60 "	24.50 "	12.3	32.1
Street-cleaning and dust collection, drainage, automobiles, &c., parks and gardens, baths, disinfection, cemeteries.. ..	3.0 "	3.20 "	6.7	4.2
Fire Brigade	1.0 "	1.80 "	2.1	2.4
Financial Administration.. ..	3.80 "	1.30 "	8.2	1.7
Unforeseen expenses and adjustment	0.22 "	1.10 "	0.4	1.4
Total	45.72 RM	76.30 RM	100	100

Owing to strenuous economies actual administrative expenses have not altered very much. In fact one item, that of Finance, has decreased to just more than $\frac{1}{3}$ of its pre-war figure. The percentage

¹Compiled by the German Union of Towns.

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decrease is even greater; whereas the 3.80 Marks of 1913 represent 8.2 per cent. of the total expenditure, the 1.30 Marks of 1925 represent only 1.7 per cent. of the total expenditure, which itself increased from 45.72 Marks to 76.80 Marks. Expenditure on Education has only increased from 15.80 marks to 19.70 Marks and has fallen from 34.6 per cent. to 25.8 per cent. of the total expenditure. Welfare has taken its place at the head of the list, having increased from 5.60 Marks to 24.50 Marks. Whereas the general increase in expenditure has remained behind the general increase in prices, that on Welfare has far exceeded it, the figure for 1925 being more than four times as great as that for 1913. In fact if Welfare is left out of account, total expenditure has only increased from 40.12 to 51.80 Marks per head of population. Recent developments have, if anything, further increased both the expenditure and percentage of the whole under the heading Welfare, which unfortunately for purposes of comparison also includes Public Health.

In the Country Circles expenditure has more than doubled, partly owing to the extension of their sphere of activities, partly to the increase in population and the inability of some Communes to bear the burdens imposed upon them. Expenditure on the two main services of Culture and Welfare is now six times as great as in 1913. The following table taken from the Municipal Year Book for 1925 gives comparisons of the onerous (uncovered) and actual expenditure for four groups of towns:—

	Onerous Expenditure			Actual Expenditure		
	1911	1925	Increase %	1911	1925	Increase %
Towns over 200,000 inhabitants	42.27 M	85.89 M	101	71 M	129 M	82
Towns with 100,000-200,000 inhabitants	42.98 „	78.75 „	83	70 „	122 „	74
Towns with 75,000-100,000 inhabitants	35.04 „	77.75 „	122	61 „	118 „	93
Town with 50,000-75,000 inhabitants	35.00 „	68.07 „	94	60 „	109 „	82

An examination of the statistics of various towns shows that even before the war expenditure was steadily increasing per head of population. At present the altered purchasing power of money renders the use of statistics very difficult. Two things are, however, plain. Expenditure on Welfare, due largely to the effects of the war and the inflation has enormously increased, while, in general, the increasing expenditure is due not to the voluntary but to the compulsory services, which are estimated by the German Union of Towns as comprising

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about 80 per cent. of the whole. The budgets for these must be approved by the State board next in superiority before provision for voluntary services can be made at all.

Summary and Criticism.

The German system of local finance is thus an extremely complicated and diverse one. All the various forms of the "Closed Mixed System" are exemplified therein, as different authorities have different methods of obtaining revenue. Before the war the local authorities, and in particular the Communes, possessed, in accordance with their wide political autonomy, extensive powers of taxation, in the exercise of which they made great use of the personal taxes, above all of the Income-Tax. The local system of taxation was thus much more nearly adjusted to the ability of the tax payer to pay than any system based solely on real taxes, despite such laws as the Prussian Communal Revenues Law which endeavoured to maintain the principle of benefit as that fundamental for communal services. Great variation in the assessment and gradation of local taxes was avoided since the most important ones were raised according to State plan.

The post-war reforms have revolutionised practice even more than they have altered the legal position. The old State Laws are still to a large extent in force although no authority now has the power to raise taxes which conflict with the interests of the Reich. The most serious development is due to the removal of the Income-Tax from the Lands to the Reich with the accompanying abolition of the right of the Communes to make additions thereto. Very little financial freedom is left to the local authorities except with regard to the real taxes, which must themselves be raised according to uniform State assessment and gradation. Local agitation against the real taxes has become so powerful that even here further increase is almost impossible.

The defects of the system as it stands are obvious. In the first place the financial relations of the Reich, States and Local Authorities are in a continuous state of flux. The system of assigned taxes, if these taxes form an important part of the total revenue of the authorities concerned, inevitably leads to uncertainty, since, when the needs of the superior authorities change, a readjustment must take place all down the scale. The burdens of reparations payments are responsible for most of the present uncertainty. How much of the system will remain when reparations have been so far paid as to be easily bearable, no one can tell. Will the local authorities again receive power to make additions to the Income-Tax, which is the main fiscal reform at present advocated by them, or will the development of industry and the growing power of the Reich itself necessitate

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a centralised system? The restrictions with regard to foreign loans will presumably be abolished when the factors which led to their introduction have disappeared. The German Union of Towns represents even them as unnecessary; it claims that the local authorities themselves are fully conscious of their responsibilities, instancing the decision of the German Union of Towns of 14th May, 1926, which recommends the towns to exercise restraint in the raising of long-term credits and to use loans fundamentally only for productive or urgent undertakings. Whether or not this recommendation would have been effective it is somewhat difficult to say.

German Local Authorities complain bitterly of the unjust distribution of burdens under the present system. Not only are they curtailed financially but legislation in other fields constantly increases their compulsory activities. Local responsibility is thus becoming seriously impaired. The local authorities would like to see pre-war financial and administrative freedom restored but, if services are to be centrally controlled and financed, then the financing must at least be adequate. Under the present system it is not, the result being that a large number of items are centrally regulated and locally financed, a principle common indeed on the Continent but to which the pressure of post-war events has aroused strong opposition in Germany. Nor, it is complained, is the distribution of functions between Reich, Lands and Local Authorities clear. Before a satisfactory financial adjustment can be obtained, it must be made quite certain which authorities have to carry out, or participate in, which services. Such a clear definition would, one must note in passing, lead to an amount of legislation likely to be extremely unpalatable to the local authorities and impair their present powers of making adjustment to local conditions by agreements among themselves.

If financial resources are really to be adjusted to burdens without seriously restricting local freedom, then, it is claimed, the power of the Communes to make additions to the Income-Tax must be restored. This has been repeatedly discussed and the decision as often postponed. The machinery has already existed, the pre-war Prussian system having been indeed remarkably efficient. According to this, those persons were subject to the local Income-Tax who resided in the Commune, who stayed there for three months, who had landed or house property there, or property in commercial or industrial undertakings. Companies were taxed, also any public utility body, including the State. Income-Tax for local purposes was not paid on the whole income but simply on that part derived within the Commune. A residence tax was paid on one-quarter of the whole income, no matter whence its source nor whether any were derived within the Commune where the tax-payer resided. If a person resided during

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the legal period in several Communes, then they divided his taxable quarter between them. The system worked well, partly because of the Prussian system of registration with the administrative control of all kinds of fixed property and other sources of income, partly because of the generally prevalent high standard of self-declaration. Unfortunately, the tax led to migration from heavily to lightly taxed Communes. This disadvantage applies however to the present business tax as well and does not discredit the Income-Tax for local purposes.

The restoration of local additions to the Income-Tax is advocated on two grounds, first, that the real taxes, in particular the business tax, may be relieved, secondly, that the Communes may have a further and more flexible source of revenue than they at present possess. In this way, it is thought, the problem of the distribution of burdens will be solved. Actually the real problem has hardly yet been faced. No system of wide taxation by local authorities can be effective under a system of industrial concentration. The financial freedom of the German Communes was established at a time when the property system was still little else than feudal. When property is dispersed and the functions of government simple then wide powers of local taxation are possible and the revenues sufficient to meet the demands made upon them. But with the growth of government functions, the geographical concentration of industry and the concentration of ownership, such a system becomes increasingly inadequate. The Land is divided into poor and rich districts. In the former revenue is low and the necessary expenditure high, in the latter resources are ample while expenditure is low. Hence despite the antipathy to grants-in-aid, there are repeated demands for increased Reich grants to Welfare and State grants to Education and Police. It is possible that the Assigned Taxes System could be developed so as to afford some adjustment between rich and poor districts by methods of distribution similar to that adopted for the General Turnover Tax. This would result, in other words, in a system of general grants (not block grants as the amounts would not be fixed) the worst evils of a system of grants-in-aid being thus avoided. This however would not afford all the adjustment necessary, as sufficient factors cannot be taken into account when the standard of distribution is fixed. The German local authorities are very jealous of their freedom which they have generally used to good purpose but if central control is to some extent a leveller down, it also levels up. In any case, it is to be feared that the days of wide local financial autonomy are over.

Control of Public Utility Services in Germany

By W. ERIC DAVIS, B.Sc. (Econ.) Lond.

THE present writer recently made some attempt to analyse and classify the various German experiments in public enterprise. Owing to an almost complete lack of an accepted terminology to describe the various forms it has been necessary to invent phrases which, if somewhat clumsy, are quite easy to understand once they have been encountered.¹

There are three chief forms, dependent, independent and complex. Those included within the first term are the old Régie enterprises which are directly run by the authority concerned and possess most of the characteristics of English municipal enterprises. The expressed will of the Council can penetrate directly to the centre of managerial authority which is subject to the constant criticism and ultimate confidence of the elected representatives. The inclusion of finance within the general budget and of employees within the general body of local officials form secure bonds between the concern and the council which have hardly been weakened by some councils which have voluntarily relinquished control over the smallest financial details or by others which have instituted schemes of co-operation of outside experts or to the managing bodies. Forms of enterprise so widely differing as banks, slaughter-houses and electricity generating stations may be managed by this method which, as the simplest and most primitive form of public enterprise, is likely to fall into disuse as the scope of public control and management becomes wider and more complex. In Germany the limitations of this form had been realised before the war; but the foundation of the Republic and the experiences of inflation and reparations payments have proved to be determining stimuli towards the creation of new forms. There are no conclusive statistics upon this point but a few samples from different authorities suggests that the *régie* (dependent) form is rapidly diminishing and already includes less than one-half of the total public enterprises.

The independent form, as the name suggests, allows to the enterprise a certain degree of autonomy by investing it with a legal

¹ Meakin, in his book "The New Industrial Revolution," adopts terms which are inadequate and in part misleading.

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personality separate from that of the parent authority. Three methods of doing this are possible. By special law the concern may be given a particular legal status; by general law a body of regulations may be enacted to which all such concerns should conform; or some existing law may be adapted to the purpose in view. Although there is a remarkable degree of local autonomy in Germany the majority of authorities have not the power to resort to the first method and the larger authorities tend to discourage proposals involving bills of first-class importance. No more use of this method has been made in Germany than in England, which has already created Boards for electricity, broadcasting and the Port of London. Probably for similar reasons there has arisen no general body of law relative to public enterprise in Germany. The new Reichstag has had a multiplicity of important measures before it and little time to deal with jealously guarded local freedoms. Failing appropriate legal forms, therefore, public enterprises have tended to overflow into other spheres and to find expression through the law relating to private companies.

The peculiarities of organisation due to the clauses of the German Company Law may be ignored without detracting from the interest of the general features. Management of these concerns is conducted through three organs, the General Meeting of Shareholders, the Council of Directors and the Board of Management, and in this simple form public authorities have found it possible to engage in banking, manufacturing and trading enterprises. The company may be formed to participate directly in the businesses enumerated above—in which case it may be called a Public Business Company—or its function may be to co-ordinate the activities of two or more concerns (Subsidiary Public Business Companies) when it should be called a Public Holding Company. Each form is again subject to differentiation according to whether the capital of the concern is held by one authority or distributed among more, a characteristic which may be indicated by the introduction of the term Mixed at the beginning of the title; and again in order to make clear whether the company both owned and managed its plant or whether its function was merely management. Both forms of Public Business and Subsidiary Companies may be subject to this limitation which may be indicated by the insertion of (Management) immediately before the "Company."

Most of these forms have been employed by several authorities. The larger, such as the Reich, or States, have tended to resort to the Public Holding Company to manage their various interests. The Reich-owned Vereinigte Industrie A.G., the largest of these embraces the generation of electricity, manufacture of aluminium, synthetic nitrogen and machinery, and banking within its scope; Sächische

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Werke A.G. controls the industrial holdings of the Saxon State and the Company usually known as Preussag performs the same function for the large Prussian coal mining interests. These companies exercise a more or less general control over the interests they control, which are usually organised as Subsidiary Public Business Companies, the capital of which is in the hands of the central holding company.

With the smaller authorities this form has proved less popular. There the majority of the interests are not merely trading concerns subject to the two claims of good working conditions and high profits. Most of the capital held by the towns is in transport, electricity, gas or water undertakings, or in markets, baths or slaughter-houses, enterprises which directly and obviously affect the general as well as the economic welfare of the population and which are subject, therefore, to criticism from a third centre. Further, the monopolistic character of most of these services has made it necessary that they should be particularly sensitive to well-informed criticism, a thing which is diminished under the holding company form in which the ultimate centre of control is often remote from the people who are to be served. In towns, therefore, the *ad hoc* Public Business Company is the form most used; but it would be a mistake to regard this form as that which will ultimately be accepted as being generally appropriate. Narrow boundaries and a lack of capital have, in the light of the obvious economies of large-scale enterprise, formed powerful stimuli towards co-operation on the part of adjacent authorities. Sometimes this co-operation has amounted to the larger authority in fact taking over the enterprises belonging to the smaller; in the majority of cases it has been more mutual and, by the distribution of shares among several authorities, it has been possible to set up "Mixed" concerns with wide jurisdiction and adequate capital.

Whether of the mixed or ordinary variety, public control is exercised through the General Meeting of Shareholders consisting of the representatives of the public authorities holding the capital usually in proportion to their shares. This body controls the personnel of both the Council of Directors, which it elects, and of the Management which it can recall; but in the industrial as well as in the political sphere recent tendencies have been towards a concentration of power in the hands of executive authorities and this trend has shown itself in the increasing power of the management. This consists usually of technical experts, competent and able men at their work but frequently unfitted to undertake the supreme control which demands a wider view and the ability to weigh up the value of conflicting interests. In both holding and mixed companies the Council of Directors tends to be weak either because it is divorced from the circumference of executive acts by too many barriers of consultation

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and decision or because the multiplicity of interested authorities, and the necessity for meeting their demands for representation results in a body so unwieldy as to be incapable of exercising its proper functions of criticism and advice and general oversight and control of the management. The added factor of co-optation to represent outside interests or facilitate co-operation with other bodies has intensified this problem, in some places to such an extent that, as with Sächsishe Werke the Council has found it necessary to carry out its normal functions through a small working committee. In Public Business Companies this difficulty has usually been avoided and in some cases the Council has been made the means of avoiding the danger inherent in the *ad hoc* system by developing co-operation between similar services through interlocking directorates.

The Berlin Traffic Company is a Public Business Company the shares of which are held completely by the Berlin City Council. Working with a capital of £30,000,000 it has a monopoly of Berlin passenger transport excluding airways and taxis and the lines belonging to the Reichsbahn. The directorate consists of thirteen members elected from the two chambers of the Town Council and there are five managers for traffic, technical and personnel, for land and purchasing and a fifth for the rapidly expanding underground system. The Town Council has special arrangements by which the shareholders' meetings of its companies shall be arranged; in general it is true to say that the directors are elected by the Council and reflect the strength of the different political parties there. Since 1920 the area of Berlin has been greatly extended and this, combined with the wealth of the city makes the success of such a company assured.

There remains the third form of organisation which has not yet received notice. Complex¹ companies which fully recognise the principles neither of public nor of private ownership were common in Germany before the war and had received some publicity in England. Attributed with all the advantages of both types, a concern for public interests together with business management and freedom from political control, they have in fact been discredited in Germany since the war. Authorities discovered that their own independent concerns were equally efficient and much more profitable and the fact that the companies in complex form frequently showed no enthusiasm for the public interest except at times when concessions from authorities were needed has discouraged any extension in that direction—although many of the larger complex companies such as the R.W.E. have been maintained in their previous form. An interesting example of this form is a method by which some authorities have granted franchises to private concerns, allowing them to use municipally owned plant.

¹ Gemischtwirtschaftlichen Unternehmungen.

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First an "owning" company in which a large majority of the shares belongs to the Public Authority is set up and then a second "management" company is formed, the shares of which are divided between the first company and the private concern, which latter holds a majority.

It would be quite easy to fit a London Traffic Monopoly into either of these complex forms; but as complete public ownership is to be a fundamental of the present scheme some form of Public Business Company is likely to emerge. The London problem is unique in that co-ordination, to be effective, must deal with five types of transport which are at present distributed carelessly between half-a-dozen or more authorities. In central London and the nearer suburbs trams, buses and tubes are the most important: extending further are the suburban railways and long-distance road transport lines. Many of the owning authorities have no interests in common; where they compete they are usually irreconcilable. To attempt to federate them without extensive common ownership would be a superhuman task almost inevitably doomed to failure. Yet even assuming that trams, buses and tubes are socialised the problem of a constitution for the Traffic Authority still remains.

The Organisation of Soviet Finance

By S. MUDDIMAN

THE Soviet Tourist Agency is calling visitors to "the most interesting country in the world." Recently I spent five weeks under the Red Flag. It was a private trip, but introductions allowed me to see something of departmental administration and industrial organisation, as well as the scheduled sights.

In the Constitution of 1923 the New Russia is declared to be "a garden where are mutual confidence and peace, national freedom and equality with brotherly collaboration of the peoples." It is a good thing to accept an invitation to visit a neighbour's garden. Naturally the best is shown, and one does not expect to return completely informed concerning the host's business and domestic affairs. Opinions on the Soviet's policy differ widely, but the organisation of finance in a State extending over one-sixth of the world's surface, and which is taking entire control of commercial enterprise and pursuing a vigorous campaign of socialisation among a population of 160 million souls, cannot fail to interest us.

Dumping of Russian timber, coal, oil and wheat in remote markets provides unpopular evidence of her organisation. This is the means by which credit is being obtained to buy machinery for gigantic factories and collective farms under the five-year plan. This plan is a programme of economic and cultural development drawn up in great detail by the State Planning Commission. It determines the volume and character of production, and arranges for distribution and finance with the object of attaining the most rapid progress in the most economical way. The operation of the plan is in the hands of the Government departments of the Soviet Union and of the constituent Republics—the People's Commissariats for Trade, Agriculture, Transport, Education, Finance, &c. Thus the Commissariat for Trade controls foreign trade on the export-import plan laid down. It works within the Union through specialised organisations for different products—state trusts, combines and syndicates—and through trade delegations in foreign countries. According to the plan exports are to increase from 774 million roubles in 1927-28 to 2,047 million roubles in 1932-33, and imports from 945 million roubles to 1,705 million roubles within the same period.

86 billion roubles will be required to finance the five-year plan,

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apart from floating capital. It will mobilise more than half the national income for the period, and therefore dominates the Soviet budgets.

Capital Expenditure during the Five-Year Plan, 1928-29 to 1932-33.
*Millions of
Roubles.*

(i) <i>Economic Group</i> —			
Including Industry	17,830,	Agriculture	6,746,
Electrical Development and Transport	12,430	...	...
			54,629
(ii) <i>Social Welfare and Cultural Group</i> —			
Including Education	10,385	...	...
(iii) General Administration and Defence	...	...	...
			21,396
			9,980
			<hr/> 86,005 <hr/>

Sources of Financing the Five-Year Plan.

	<i>Millions of Roubles.</i>
(i) Government Budgets (Union and Republics)...	44,709
(ii) Banking System	6,628
(iii) Social Insurance	9,180
(iv) Economic Organisations (Co-operative Societies, &c.)	18,961
(v) State Loans	6,527
	<hr/> 86,005 <hr/>

BUDGETS.

Separate budgets are drawn up for the Union and for each of the seven constituent Republics. These budgets are unified in an all-union budget by the Commissariat for Finance and passed to the State Planning Commission for consideration. Then the Council of People's Commissaries of the Union adjudicates upon any amendments suggested by the State Planning Commission which are not acceptable to the separate Republics, and finally the budget is ratified by the Central Executive Committee of the Union.

All revenue of the separate Republics passes into the central treasury of the Commissariat for Finance of the Union, which also becomes the source of all expenditure. The Union exercises general supervision over the budgets of the separate Republics and makes grants to them from general revenue, but administration is in the hands of the local organisations. Their expenditure is mostly in connexion with education, public health, model farms and land drainage. They draw revenue from land, property, forests, fisheries and other

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natural resources within their borders, except from mines, which belong to the Union as a whole.

During the early years after the revolution, Soviet taxes were largely paid in kind. In 1922 more than half of the total revenue of 795 million roubles was so collected, while the greater part of the balance was covered by emissions. At that point the paper rouble had depreciated to the extent that there was no stable monetary unit for trading. In October, 1922, however, a step towards reform was taken by the issue of State Bank notes (chervontzi) with a cover of not less than 50 per cent. (later 25 per cent.) in precious metals. These bank notes and the old currency remained in circulation together until 1924, when the old tokens were redeemed at 50,000 roubles for notes of the value of one rouble in gold = one chervonetz rouble, which the Treasury was authorised to issue up to three-quarters of the bank notes in circulation. Thereafter revenue receipts in kind disappeared. Budgets became more stable, and have increased from 1,476,800,000 roubles in 1922-23 to 7,999,337,000 roubles, actual revenue, in 1928-29.

BUDGET OF THE U.S.S.R. FOR 1928-29.

Revenue from	Actual Revenue in 1,000 roubles	Expenditure on	Estimates in 1,000 roubles
Direct Taxation - - -	1,907,957	Financing of National Economy, including—	
Customs Duties and Excise - -	1,917,085	Industry, Agriculture and Trade - -	2,175,680
Stamp Duties - - -	134,976	Transport and Communications - -	2,256,702
Post, Telegraph, &c., Services - -	198,102	Social and Educational - -	644,130
Transport - - -	2,188,744	National Administration - -	238,993
State Property and Enterprises, including—		Army, Navy, &c. - -	930,081
Industry, Commerce, Banks, Forests, Mines and Concessions - -	812,448	Repayment of Loans, &c. - -	293,000
Miscellaneous, including issue of Currency - - -	136,873	Payments to Local Authorities, &c. - -	1,173,830
State Loans - - -	703,152	Special Currency Reserve - -	50,000
		Miscellaneous - -	101,705
	<u>7,999,337</u>		<u>7,864,121</u>

REVENUE.

Assessment and collection of revenue is decentralised, and designed to gather the contribution due to the State as soon as possible after income is earned. Some taxes are payable in five instalments throughout the year. There is no secrecy regarding returns, and with state control of banks it would be difficult to withhold payment without hoarding, which is a very serious offence.

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Direct taxation includes:—

Industrial Tax (1,173,307,000 Rs.) is imposed on all industrial and trading organisations as a percentage on sales (interest and commission in the case of banks, and sales less cost of materials for industries). The rate varies from 1-15 per cent. for different trades. Private undertakings pay higher rates than state or co-operative undertakings.

Agricultural Tax (430,053,000 Rs.) was levied in 1928-29 at 3-30 per cent. according to scale. Income is computed from a schedule giving, for different Republics, the average income per dessiatin of land under different cultures and per head of various cattle. Recently this tax has been reduced to encourage the development of agriculture, and additional concessions are offered where peasants introduce improved methods of agriculture.

Income Tax (283,458,000 Rs.). The rate varies for different occupations, manual workers being the most privileged. Generally speaking, incomes up to 1,000 roubles per annum pay 1-2 per cent. The scale rises steeply for higher incomes, up to 54 per cent. for receipts over 24,000 roubles per annum.

Inheritance Tax (1,817,000 Rs.) is assessed at 1 per cent. on amounts from 1-2,000 roubles, and thereafter at a rapidly increasing rate up to 60 per cent. over 200,000 roubles, and 90 per cent. over 500,000 roubles.

Customs Duties and Excise apply to tobacco, sugar, tea, spirits matches, &c.

State Loans in the budget are earmarked for productive purposes. Those which are intended to appeal to the masses are mostly lottery loans. Interest-bearing loans (6-11 per cent.) are held mainly by Soviet companies and public institutions, which are obliged to keep their reserves in such securities. Foreigners subscribing to loans are guaranteed interest and capital repayment in the currency in which subscription was made, and at the rate of exchange of the gold parity of the chervonetz.

The State debt of the Union at the end of 1929 amounted to 2,595,000,000 roubles. This of course makes no allowance for pre-revolution debts, which are another contentious story.

AUDIT.

The Commissariat for Financial Control examines the accounts of budget revenue and expenditure, and reports direct to the Central Executive Committee. Rigid adherence to estimates is enforced. The appropriation of funds for purposes other than those for which they were provided is a criminal offence. The Commissariat for Financial Control also reviews the accounts of economic organisations

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outside the budget—co-operative undertakings, &c., and has power to call in expert advice to ascertain whether expenditure is economical. For the most part, however, the "light cavalry" of the Communist Party discovers inefficient management and administrative irregularity before it is brought out by accounts, in a manner which does not form part of our system.

BANKING, &C.

The establishment of the State Bank in 1921, and the currency reforms of 1922 and 1924 made possible the rebuilding of banking and credit systems within the Union. Joint Stock Banks came into existence to finance industrial undertakings, and agricultural, municipal and co-operative credit systems followed. The functions of these various institutions are distinctly determined and they are restricted to particular categories of clients. Long-term credits are dealt with by a special bank, which derives part of its funds from a 10 per cent. contribution out of the net profits of all industrial enterprises belonging to the State.

Current loans and discounts provided by all the banks amount to over 10,000,000,000 roubles, practically the whole of which has been granted to state and co-operative organisations. Settlement of all accounts between state and co-operative organisations must be effected through the State Bank, which thus becomes a central clearing house.

BALANCE SHEET OF THE STATE BANK OF THE U.S.S.R. AT
1ST OCTOBER, 1929.

Liabilities	Million Roubles	Assets	Million Roubles
Capital - - -	250'0	Cash - - - -	76'0
Reserves and Undivided Profits	183'8	Bullion, Coin and Foreign Currencies	384'5
Note Issue - - -	1,466'3	Securities - - -	348'7
Deposit and Current Accounts (includes Funds of the Commissariat for Finance)	2,028'7	Loans and Discounts - -	3,833'7
Government Funds for Loans to Industry and Agriculture	118'9	Special Loans to Industry and Agriculture	358'5
Commission and Interest -	307'1	Other Assets - - -	403'7
Other Liabilities - -	1,050'3		
	5,405'1		5,405'1

Savings Banks are under the direction of the Commissariat for Finance. Branches are to be found in post offices, railway stations, libraries and factories. The competitive spirit is encouraged between factories in regard to savings and loan subscriptions in the same way that it is fostered to increase output. In 1929 the number of

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depositors was 7,297,300 with deposits amounting to 451,700,000 roubles. Interest varies from 6-9 per cent. per annum according to the term of deposit. Savings bank funds are invested in Government stock.

INSURANCE.

Insurance operations are a monopoly administered by the State Insurance Department under the control of the Commissariat for Finance. Insurance of property against fire, and of crops against weather is compulsory.

Social insurance is also compulsory for all workers, except those in remote districts. There are benefits for sickness, unemployment (50-65 per cent. of normal wages) and for dependents in the event of the breadwinner's death. No direct deductions are made from workers' wages, but each business makes a contribution of 20 per cent. of its wage bill to the fund. Workers are instructed that 5 hours of their daily work is for the wage they receive, and the rest for social benefits (insurance, holidays, free concerts and sports, &c.).

The most human and intriguing of the financial problems in Russia appears to be the balance between wages and prices. The vast majority of industrial workers receive less than £2 per week, though many receive a good deal more. In 1927-28 wages stood at 32.7 per cent. above the pre-war average, and in 1928-29 at 38.6 per cent. above. By the end of the five-year plan an increase of 109 per cent. is promised.

Prices, however, are about 85 per cent. above pre-war, and in 1928-29 there was a slight increase over 1927-28. It is difficult to estimate the cost of living, because there are few goods for display and a scale of discounts applies to marked figures according to the nature of the purchaser's employment and the amount of his wages. Meals in communal restaurants are roughly at London tea-shop prices, but the fare is very simple. Common suits are priced at £6-£8. About 36 per cent. of the retail trade is carried on by state shops, 60 per cent. by co-operative societies and 4 per cent. by private traders.

Very elaborate costings are kept for various processes in all departments and undertakings, but in most cases dummy figures are used for raw materials, premises, &c. The secret by which ends are made to meet appears to be in the restriction, by ration card, of all personal and domestic requirements—food, clothes and accommodation—to sheer necessities, and the adjustment of wages and prices to cover a bare living.

Allowing the general principle of public ownership, financial organisation within the Soviet Union is broadly on lines to which we

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are accustomed. There is no denying the magnitude of what has already been achieved towards the industrialisation of the country and the improvement of education. Fifty-nine foreign trading organisations, capital 62,500,000 roubles, are helping with mining, industrial and agricultural concessions. Much remains to be done, however, and much is in the transition stage. Whether the financial organisation and resources of the country will stand the strain is as difficult to forecast as to prophesy whether the new social order and ideals will endure. The first year's quota of the five-year plan was easily exceeded, but the second stage has not been so uniformly successful. Part of the blame is attributed to the Commissar of Finance and the chairman of the State Bank, who have just been dismissed. The slogan everywhere, however, is: "do the five-year plan in four years," and a great deal of honest energy and well-planned organisation is being manifested, which cannot fail to achieve good results.

The economies possible from co-operation are undeniable, as for example in the supply of the whole of Leningrad's bread from two bakeries, and in such institutions as the continuous five-day week. But the paradox abounds. Competitive advertisements have disappeared and propaganda fills the hoardings. The Russians are naturally a happy and likeable people, but all is not yet peaceful collaboration within their garden. Really, like ourselves, but from a different point of view, they are organising and hoping for better times under very great financial handicaps.

The Sphere of the State in Local Administration

By G. MONTAGU HARRIS, O.B.E., M.A.

[*Being the Second Warburton Lecture for 1930 at the Victoria University of Manchester*]

IN dealing with the subject of this lecture I do not propose—for it would be obviously improper for a Civil Servant to do so—to discuss what ought to be the sphere of the State in local administration, but to give, so far as I can, in a brief survey, a description of the actual facts relating to the subject in several countries.

Few sovereign states are small enough to carry on all governmental functions from a single centre. Local administration of one kind or another is, therefore, almost always essential, but it must of course be understood that local administration does not necessarily mean local self-government.

Local administration may, indeed, consist merely in the establishment, in various parts of the country, of State officials, responsible for carrying out, within the particular district to which they are allocated, the instructions of the central government. This is the extreme form of centralisation and, so far as this is departed from, we find varying degrees of decentralisation, until we reach the opposite end of the scale, where the autonomy of the local authorities is of so extensive a nature that the State has little control over them and only a certain restricted category of powers are assigned to the central government.

At the present time, the countries which possess the most completely centralised forms of government are Italy and Russia.

The Fascist system of local administration was established by a decree of the 3rd September, 1926, which was based upon an Act of the previous February. By this decree the whole system of representative government throughout Italy was swept away and, in each of the 9,137 communes, a single person known as a "Podestà," appointed by the central government for a period of five years, was substituted for the mayor and municipal council. The law provides that he shall be unpaid.

It is true that a body is provided for in each commune, known as the Consulta Municipale, consisting of not less than six citizens who

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possess certain definite educational qualifications and are not subject to any of the specified grounds for disqualification. These members are appointed by the Prefect—who, as official governor of the Province, is the superior authority to the Podestà—as regards one-third directly and as regards two-thirds on the nomination of local syndicates and recognised economic organisations.

The Consulta is summoned by the Podestà at his discretion and gives advice on all matters which he submits to it. Its opinion must be taken with regard to all decisions of the Podestà which concern the budget estimates and certain other financial matters, but the Podestà is not bound to comply with it.

This official, indeed—who is by no means necessarily a local man, but may be, and often is, a retired Army or Navy Officer—is not in practice hampered by any obligation to defer to local public opinion. His responsibility is solely to his administrative superiors, the Prefect and the central Government. He is bound to carry out his functions in accordance with general principles laid down by the State. The question of the legality of his acts is under the control of the Prefect, to whom he must send every decision which is other than a mere execution of measures which have already received approval.

There is, further, an administrative control over the Podestà exercised by a provincial body known as the "*Giunta Provinciale Amministrativa*," consisting of the Prefect, two prefectural councillors and four elected members. This body judges of the expediency of proceedings from the administrative point of view and allows or disallows them according as they are, in their opinion, in accordance with the interests of the community as a whole.

The Prefect stands to the province in much the same relation as the Podestà to the commune. He is equally a State official, obliged to take orders from headquarters. Consequently, the sphere of the State in local administration in Italy is an all-embracing one. Every detail of government, central or local, is in the hands of a representative of the central government, to which, and to which alone, he is responsible.

I do not propose to dwell upon existing conditions in Russia—partly for the good reason that I know very little about them. It does seem clear that, whatever be the forms of local organisation—elected village and town soviets, appointing representatives to the provincial soviets and so on to the general congress—it is undoubtedly the case that the central oligarchy completely controls all that is done in any part of the country.

It is, I think, unnecessary to say anything about the Spanish Dictatorship, as that has now come to an end, and, as Spain has, in her existing legislation, a very elaborate local government system, it

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may be that she will revert to that, or to something like it, in the near future.

Next to the cases of complete centralisation, we come to the French system, which has evolved from a pure autocracy into a definite, centralised organisation, which has in its turn of recent years been somewhat modified by concessions to the principle of local self-government by representative bodies.

The modern system may be said to have begun with the Constituent Assembly in the great French revolution. In one respect even that great upheaval did not alter French public policy, for this has always been directed to preserving the unity of France and it is that aim which has led every government, monarchical, imperial or republican, to hold firm to the principle that the State must have its hold over every act of public administration in every part of the country. It was in the furtherance of this principle that the Constituent Assembly broke up the old provinces into departments and, although an Act of 1789 did extend considerable freedom of action to the communes for each town or village, within eight years these were strictly subjected to the central power. It is illustrative of this aspect of the question that notices which we should look upon as purely municipal or local, and even the letter paper of mayors and members of councils, bear the heading "Republic of France," and that the national flag invariably flies from the town hall of every commune.

The most striking example of the predominant part which the State plays in French local administration is to be found in the position of the Prefect. That officer, who is the direct descendant of the intendant of monarchical times, is the head of the Department, which may be held to correspond to our county, though its average area, being 2,360 square miles in extent, is considerably larger.

Now the Prefects are appointed by the President of the Republic on the recommendation of the Minister of the Interior and, whereas that Minister is their direct chief, they represent also, within their respective departments, the Ministries of Finance, Commerce, Public Instruction, Agriculture, Public Works and even War.

They are not, however, mere administrative commissioners. In the words of a French authority, M. Joseph Barthélemy, "they are essentially political agents whose business it is to support and spread the opinions and wishes of the Government throughout the whole administration. Consequently, no special standard of ability is required of them, and since political aptitude is not measured by diplomas, the Government's liberty of choice is complete. In fact, what is required of a prefect is not technical competence at all, but obedience, tact, and the conformance of his actions with the policy and will of the Government; so that a prefect may be justly dismissed,

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not on account of any fault, but simply by reason of a disagreement between himself and the Government which he represents."

Now this political agent, appointed and dismissed by the central Government, is the sole responsible executive official for the Department, controlling sanitary administration and "police" of every kind, in the broadest sense of the term, roads and education, elections and all matters relating to conscription and registration. It is true that there is also, in each department, an elected general council, which is a body of recognised and growing importance, corresponding generally to our county council, but it has as a rule only two sessions a year and its powers are mainly of a deliberative nature, in no way detracting from the prefect's responsibility.

But not only is the prefect the head of the department. He has also very extensive powers of control over every local authority within it. These are the communes, which are, with the exceptions only of Paris and Lyons, on the same legal footing, whether large towns or small villages. Each of them has an elected council and a mayor, who is elected by the council. Once elected, though unpaid, he becomes an agent of the central government as well as executive head of the commune and he may be suspended for one month by the prefect and for three months by the Minister of the Interior, and may be dismissed by decree.

The mayor, in fact, as agent of the Government, is a subordinate official to the prefect, but the latter has also the power to amend the decisions of the communal council or refer them to the Minister and even to suspend a whole council, or, subject to the approval of the Minister, to dissolve it. Indeed, according to M. Barthélemy, "all resolutions of any importance, all those which affect the life of the commune, can only be carried out with the approval of the prefect; without such approval the municipal council could not even change the name of a street."

The dependence of communal administration on the central Government may be illustrated in yet another way. The chief official in each commune—other than the mayor himself—is the "secrétaire de la mairie." This official is nominated by the mayor himself, but, in the majority of the rural communes, the only person available is the school-teacher, who, it must be remembered, is an official of the central Government. Moreover, the communes are required to employ State officials in their service for various purposes, and may do so in other cases.

In the matter of finance, the main source of revenue of the local authorities is the addition of centimes to certain of the national taxes and, as is the case in almost every continental country, the legislature lays down a maximum in respect of certain kinds of local taxation

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beyond which the local authority of any grade may not go except by special authorisation. Consequently, although there is a greater variety of subjects for local taxation open to the French authorities than to the English, in the matter of the amount the former are more restricted than the latter.

Moreover, every communal budget must be submitted to the prefect for his approval and, if it does not contain sufficient provision for obligatory services, he has power to insert the additional items of expenditure and, if necessary, impose extra taxation to meet them.

A sub-prefect is appointed by the central Government for each *arrondissement*, which is an administrative sub-division of the department covering a number of communes, and he represents the prefect in that *arrondissement*.

There is another institution with which the prefect is connected, which I have not yet mentioned, namely, the prefectural council. Until 1926 there was such a body in each department, consisting of three members appointed by the central Government and paid a small salary. This body was expected to advise the prefect on his administrative functions, though he was not obliged to follow the advice. The main function of the prefectural council, however, was as an administrative court of first instance.

This brings one to the question of administrative law—a very large subject, with which it would be impossible to deal adequately even if my whole lecture were devoted to it. It is, however, not in reality directly relevant to my subject, though it may appear to be so.

It is a frequent assumption among English people that the existence of a system of administrative courts, which are distinct from the ordinary courts of law, means that the administrative authorities are judges in their own cause and that this is therefore one of the strongholds of bureaucracy and centralisation. This is, however, not the case. The administrative courts of France are, in their constitution, no more subject to the Government than any others, nor is it found in fact that they incline in favour of the administration. The judges are specially selected as men who are acquainted with administrative practice as well as with the law, but they are not and may not be themselves administrators. The procedure is more rapid and cheaper than that before the ordinary tribunals and the institution, which culminates in the *Conseil d'Etat*, appears to be highly appreciated by the general public.

Decrees of the year 1926 made some substantial alterations in the local government system of France. The number of sub-prefectures and of prefectural councils was considerably reduced. Both general and municipal councils were relieved of the necessity to obtain the prefect's consent in certain cases and, where such consent is necessary,

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it is in future to be assumed if no reply to the application for it is received within 40 days. Time is also saved by giving the sub-prefects, instead of the prefects, the power to approve the budgets of all communes except the largest towns. Moreover, the power of communal authorities to establish trading undertakings is largely extended.

According to French opinion, these decrees constitute an important step in decentralisation. This decentralisation is, however, mainly to the prefect and sub-prefect, not to the elected councils. The principle of " tutelle administrative " is not departed from. The position is thus stated in the latest edition of Prof. Louis Rolland's " Précis de Droit Administratif " :—

" By the decree of the 5th November, 1926, the control over the general council (*i.e.*, of the Department) has been sensibly diminished But there should be no illusions. The council's liberty of action is still restricted It can vote additional centimes only within the limits fixed annually by the Finance Act Its financial liberty being thus restricted, so consequently is its administrative freedom. It is to be added, that when the question arises of executing the decisions made by the general council, it is constantly necessary to obtain authorisation or the intervention of agents of the central power."

And as regards the communes Prof. Rolland finds the position much the same. That which makes it particularly difficult to effect real reforms is, he says, the uniformity of the French municipal system. " To increase the freedom of action of the municipal councils of the large towns might be unobjectionable in certain matters in which the assembly of a small commune needs to be carefully supervised, and vice versa."

And so, in France the State maintains a firm control over all the activities of the local authorities.

The French system of local government has been the prototype for a number of other continental countries. The systems of Italy and Spain, before the dictatorships, were very similar; those of Belgium, Holland and Portugal are also based on the same principles.

In Belgium, however, there is a strong feeling in favour of communal autonomy which does not exist in France. As a Belgian writer has put it: " in Belgium, communal independence is worshipped almost as a fetish." Consequently, though the system is much the same, the sphere of the State is more restricted. It is therefore rather surprising that the burgomasters should still be appointed by the King instead of being freely elected. In spite of this, it appears that practically the only check on municipal autonomy is the financial one. The control in the matter of budgets and accounts by the so-called " per-

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manent deputation " (which is the executive committee of the provincial council), and by the King over both provincial and communal authorities, is very far-reaching.

The governor of the province is appointed by the King, but has no such powers as the French prefect, the executive of the province being the permanent deputation already mentioned. The "greffier," however, who may be described as the clerk to the provincial council, is a special link between that body and the central Government, being appointed by the King for six years, on the recommendation of the permanent deputation, and being re-eligible at the end of that period. He is, in fact, a Government official attached to the provincial authority to assist them in carrying out their functions.

In Holland, conditions are very similar, both the royal commissioners, who preside over the provincial councils, and the burgomasters of the towns being appointed by the Crown, and the Crown's consent being required for a number of acts of the local authorities, especially those relating to finance. In practice, however, there is great freedom from central control and the burgomaster is certainly apt to look upon himself and to be regarded as "the man of the commune" rather than as an agent of the central Government.

The Scandinavian countries seem to form rather a special group in this matter of local administration. The comparatively isolated situation of the majority of towns in Norway and Sweden has in itself led to a considerable amount of local autonomy in practice, although the constitutional theory is that the communal administration is completely subordinate to the State. On the other hand, it is clear that the Danish "Amtmand" and the Norwegian "Fylkesmand" or county governor, who are permanent Government officials, have a very definite control over the proceedings of both town and district councils.

A Norwegian contributor to the organ of the Norwegian Union of Towns writes: "The State decides whether a duty shall be undertaken by State officials or by local authorities. It is the duty of the State to supervise communal administration and the communes must submit to this control. A number of administrative functions are at first communal, but, as these develop and grow, the administration becomes the duty first of the district and subsequently of the State (*e.g.*, electricity, roads, old age pensions). The commune has no primary right to impose taxes; therefore, self-government relates only to the spending of the money which the commune is empowered by the State to collect."

Again, "historical considerations play a large part in the distribution of administrative expenditure between the State and the commune and the procedure is far from clear. This want of clearness tends to

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increase at the present time, owing to the difficulty which both State and commune experience in balancing their budget and to the inclination of each to charge expenditure to the other. There are no well-defined principles as to the sharing of expenditure. Budget requirements are the determining factor."

The Swedish system seems to give more freedom to the local authorities than they enjoy in Norway or Denmark. Certain communal decisions must be submitted to the county governor for approval, while others need the sanction of the King in Council, that is, the Government. The fact, however, that the main source of communal revenue is a local income tax, with a possible graduated super-tax, although the rate of the latter is restricted, shows that the communes are possessed of wide financial resources, which must ensure a considerable measure of independence, while it is also significant that, whereas sanction is needed for loans, in the examination of applications by towns for such sanction, the Ministry of Finance is assisted by the financial committee of the Swedish Union of Towns.

In the case of Prussia—and, with certain modifications, of most of the other German States—we have to consider the two parallel systems of local State administration and local self-government. The former is concerned with all "police" matters and it is necessary to understand that this term "police" has a very different signification on the Continent from that which it bears in England.

An Englishman finds it impossible to dissociate the idea of "police" from a man in blue uniform, whose chief function—though by no means his only one—is to catch criminals and, in the first place, to hurry them off to the "police-station."

But it must be remembered that the word "police" has the same derivation as "policy" and "politics" and that both in France and Germany, in its original meaning, it covered every branch of civil government. In both those countries its meaning has been gradually narrowed down, but not to the extent that it has in England. A German writer (Dr. Lehr of Düsseldorf) says that whereas there is no legal definition in the general legislation of Germany of the abstract notion comprehended in the term "Polizei" or police, in administrative practice it is understood to mean the compulsory restriction of the personal freedom of the individual for the sake of the community in a manner which accords with science and justice.

The German police system therefore includes in the first place administration relating directly to the public order and security. The functions under this head cover all those which we in England recognise as police functions and also such matters as superintendence over the arrival and departure of strangers, control over the press, supervision of vagrants, traffic control and morals.

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But this does not cover all the restrictions of personal freedom in the modern State, which are found necessary in the interests of the public well-being. All administration, therefore, relating to such matters is held to be a part of the "police power" and is known in Germany as "Administrative" or "Welfare Police," with its various sub-divisions of Public Health Police, Building Police, Markets Police and so forth.

Now, the whole of this system of police is held to be a matter for the State and the State alone. It is centred in the Minister of the Interior. Below him is the *Regierungs-präsident* of each district—in direct relation for police purposes proper, although for certain matters, mainly relating to the administrative courts, there is yet another authority intervening between the Minister and the *Regierungs-präsident*, namely the *Ober-präsident* of the province. In the towns the *Oberbürgermeister* or *Bürgermeister* is, as a rule, locally responsible for the police, but solely in his capacity as a State official and in subordination to the *Regierungs-präsident*, and a similar position is held in each *Kreis* or administrative county, outside the towns, by the *Landrat*, who is as completely a State official as the *Regierungs-präsident* himself. In other words the *Landrat* and, in respect of police matters, the *Burgomaster*, is not the head of a local authority over which a higher local authority has control, but is simply a subordinate officer to the *Regierungs-präsident*.

On this side of local administration, then, there is complete centralisation—the sphere of the State is such as to exclude any participation by local self-governing bodies.

These bodies, however, in respect of the matters which are left to them, enjoy a considerable amount of freedom. It is true that as regards the "delegated functions" they are little more than executive organs of the central Government, but in the true self-government sphere, they may take any action which they consider desirable in the interests of the community, provided that there is no legal provision specifically forbidding them to do so or assigning powers in the matter exclusively to some other authority, and subject to a certain amount of central control.

This control is exercised in connection with (a) the choice of the leading officials, (b) the power of making by-laws, (c) finance.

The matter of finance is the most important, for it is the limitation of their powers in this respect which alone prevents the local authorities from taking even fuller advantage than they do at present to extend the "cultural" services, such as theatres and other places of recreation, libraries and open spaces, and affects their policy as regards trading and industrial enterprises.

The requirement that the approval of the superior authority must

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be obtained to the communal budget is in itself, perhaps, little more than formal, unless there is a question of imposing fresh taxation or of raising a loan. In these matters, however, the local authorities are faced with the clash of interests between them and both the Federal and the State Governments which control them. The control of the Reich over communal finance began with the Weimar constitution in 1919 and has increased in subsequent years. The other superior authorities have always been able to exercise a controlling influence and their own financial difficulties since the War have led to further pressure by them on the communes.

As regards the choice of officials, it is not merely that the election of burgomaster requires confirmation. It is stated as a general principle that the State has a substantial interest in preserving a "social homogeneity" between central and local officials. The latter are described as "indirect State officials" and there are many regulations both by Reich and State governments as to the conditions upon which they may be appointed.

The only other European country to which I propose to refer at any length is Switzerland. Here the relation of State to local authority is very interesting. Each of the twenty-five cantons which form the Federation has its own system of local government. These systems, while they differ considerably in detail, may be divided broadly into three groups. In the first group, which consists of the French cantons and the Italian canton of Ticino, the local authorities enjoy much less self-government than in the main group of German communes. The third or Berne group may be said to hold an intermediate position between the other two.

There are certain functions of the communes which may be said to be duties which they are required by the State (*i.e.*, the canton) to undertake, and are usually set out specifically in cantonal constitutions or statutes. These include police, poor relief, guardianship, education and (except in Basle) the ordinary maintenance of the communal streets and roads. Apart from these duties, the communes are, generally speaking, free to exercise such functions as they consider to be for the benefit of their respective communities.

Except in the case of delegated functions, cantonal control over the communes is little more than formal. This is practically the case, even as regards financial control, in almost all the German cantons. In the French cantons, however, not only must the approval of the cantonal authority be obtained for any dealings with communal property, but also for the budget and accounts and for many financial resolutions even of a comparatively unimportant nature. The audit of communal accounts can be undertaken by the cantonal authorities,

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but, as a rule, only the legality and not the expediency of expenditure is taken into consideration by the auditors.

It follows that local self-government, in every sense of the term, is probably more complete in Switzerland than in any other European country. To a large extent the whole body of the people can directly participate in decisions as to the administrative policy of the locality. The various local authorities are completely independent of one another and the central control over them is at a minimum.

In the United States of America the local authorities are almost entirely free from outside control, except as regards their borrowing and taxing powers, and the restrictions on these powers are to be found in the State constitutions or statutes. In other words, such control as is exercised over them is legislative and not administrative. The State institutions are looked upon as advisory rather than supervisory bodies. And even as regards legislative control, the cities are now little restricted, in view of the wide extension of the principle of the "home rule charter."

In some respects, however, the idea of administrative control by the State is gaining ground and the author of the latest book on the subject, Dr. Schuyler C. Wallace, is of opinion that "within the next fifty years we may expect to see greater and greater administrative supervision over municipalities."

Conditions are so different in the various states that it is impossible to make any general statement on the subject, but a few instances of state control as exercised at present may be interesting.

Thus, whereas in ten states control over the assessment of municipal taxes is practically non-existent and in three it is limited to seeing that each municipality bears its fair share of state and county taxes, in four the state may equalize assessments as between different classes of property, while in the remainder real supervision is maintained.

In thirty-five states there is a state audit or inspection of municipal accounts. Twenty-one states require reports on municipal loans, in fifteen the reports being necessary to enable approval to be given.

As regards public health, practically all states collect certain statistics prescribed by law and at least forty-four may collect such additional material as seems desirable. The state board of health has frequently power to investigate sanitary conditions throughout the state, to condemn any structures which may breed disease, and, in default of remedy, to take action at local expense. State health ordinances, controlling the main local health activities, may be made in forty-seven states, while in eighteen states municipal health ordinances or certain of them require state approval.

Almost half the states supervise municipally owned utilities, the

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supervision being in some cases drastic, but in others quite nominal.

In the British Dominions, generally, the local authorities are in practice very free of central control, although the governor or administrator of state or province frequently has powers in reserve.

Having thus considered, country by country, the relations of State to local authority, under a number of different systems, let us try and make some comparison between the existing English practice and that of other countries under several distinctive heads.

Local State Administration.

We may as well clear out of the way, in the first place, the system of carrying on local government by means of officials, appointed by and responsible only to the State. Nothing of this description exists in England, whether for general purposes, as in the case of the French prefect, or for particular purposes, as the German system of *Polizei*.

Control over Appointment of Officials.

In Belgium, Holland, Sweden and Japan, the mayor or other head of the commune is appointed by the Crown, while in Germany and in the provinces of Poland which were formerly Prussian, whereas he is appointed by the council, the appointment requires confirmation by the superior authority.

In France and other countries whose system is on the French model, whereas the *maire* is locally elected, he is, besides being the executive of the municipal council, a State agent and hence a subordinate of the prefect or similar official, and may in some cases be dismissed by the head of the State.

In Great Britain, the British Dominions and the United States, the central Government is in no way concerned with the election of mayor or the appointment of the chief permanent official (town clerk, clerk of the district council, &c.). In England, however, in the case of certain officials, such as the Medical Officer of Health, appointment or dismissal is subject to the approval of a Minister, as a condition for obtaining a grant.

Finance.

The financial control which is exercised by the State over local authorities may be either (1) by a legal limitation or restriction of the resources from which they may obtain their revenues, (2) by requiring approval by the superior authority of the estimates, budgets or other decisions relating to financial matters before they become effective, (3) by a periodical audit of the accounts, or (4) by the withholding of grants.

(1) Restrictions as to Resources.

These are laid down by law in almost every country. Local authorities are permitted by law either to levy certain taxes themselves

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or to add centimes to certain State taxes for local purposes, or both practices may be adopted at the same time. In most European countries the system of additional centimes is in force and, naturally, the taxes to which it may be applied are specified by law and the amount of additions which may be made strictly limited.

Where local authorities have power to levy a local income tax (*e.g.*, in Holland, Norway, Sweden, Denmark) the State as a rule fixes a limit to the rate at which it may be levied, but in Finland there is no such limit.

In almost all countries except Great Britain, local authorities are permitted to levy taxes on a number of specified objects—and that whether or not they levy “additional centimes” or a local income tax. In some countries they may tax anything which does not affect the State system.

In Great Britain the local authorities are restricted to one form of local tax, namely, on the annual value of land and buildings, but with few exceptions, there is no limit on the rate of the local tax which may be so levied.

The views expressed in a paper by a French delegate at a recent International Congress, as to the proper basis of local taxation, are illustrative of the great difference between the French view and ours as to the relations between central and local finance. It was suggested in the paper in question that:—

(1) A system of local finance must, as far as possible, include all kinds of imposition which are to be found in the State system and, indeed, be in effect a reduced reproduction of that system, in order that all taxpayers and all revenues may be called upon to contribute to the local charges.

(2) The burden of local taxation must be distinctly felt by the taxpayer and be distinguished by him from the burden of State taxes, in order to avoid extravagance.

(3) The main portion of local taxation should be represented by impositions of general application, in view of the desirability of uniformity among the localities as regards financial charges.

(4) The local impositions must be such that their assessment and levy can be carried out by the State services, since the majority of the local authorities are not in a position to exercise these functions.

(2) *Approval of Budgets, &c., by Superior Authority—(Preventive Control).*

In France the communal budgets are settled by the prefect and those of the largest towns require the approval of the President of the Republic on the proposition of the Minister of the Interior. In

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Belgium and Holland the communal budgets are subject to the control of the provincial authorities.

In the Scandinavian countries, the German states and Spain (before the Dictatorship), the communal budgets, although they may be required to be submitted to the superior authority, do not as a rule need its approval, except in some cases for the imposition of new taxes. In Japan the sanction of the Minister of the Interior and of the Minister of Finance is required for the levy of new taxes, for expenditure which will cover a period exceeding four years and some other financial matters.

The very strong measure of control known as "inscription d'office"—that is, the power of the superior authority to insert in the communal budget items of expenditure for obligatory functions—is practised in Japan as well as in France, Holland, Poland, Hungary and some of the German states.

In Great Britain, the British Dominions and the United States there is no preventive control by superior authorities in financial matters except as regards loans.

It is an almost universal rule that the borrowing of money by a local authority requires the sanction of the Central Government or its representative, although in some cases loans for small amounts or for short periods may be raised without such sanction.

In the United States, however, the control in the matter of loans is not as a rule by way of approval in each case, but by a maximum limit, laid down in the State constitution, to the total amount which may be borrowed by a local authority.

In England and Wales, sanction for a loan must be previously obtained in every case from a Government Department, usually the Ministry of Health, and a similar rule is in force in Scotland and Ireland.

(3) Governmental Audit of Accounts—(Subsequent Control).

In most, if not all, of the countries in which communal budgets must be submitted to the superior authorities, the final accounts of the communes must also be so submitted. This does not necessarily imply that there is in these countries a systematic Government audit.

The Government audit of local authorities' accounts in England and Wales is under the control of the Minister of Health and applies to certain of the accounts of town councils and to all the accounts of other local authorities.

(4) Withholding of Grants.

The giving of Government grants to local authorities in respect of certain of their services is necessarily conditioned—to a greater or less extent—by the proper conduct of those services.

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The particular form in which these grants have been given in England of recent years has led to a more meticulous examination by Government auditors of local finance than is usual in other countries. It is contemplated that this will be greatly decreased by the changes made as a result of the Local Government Act, 1929, but control by this means will still exist, for the Minister of Health is given power to reduce the grant payable to any council by such amount as he thinks just, if he is satisfied that the council have failed to achieve or maintain a reasonable standard of efficiency and progress in public health services or that the expenditure of the council has been excessive and unreasonable. Other Ministers have similar powers as regards their respective spheres of influence.

General Control.

Apart from the special question of finance, the general control over the proceedings of the local authorities is, in most European countries, exercised by an official such as the prefect, who is the representative of the Central Government for the department or corresponding administrative area.

In many of these countries resolutions of the local authorities on a number of matters other than financial require the approval of a higher authority and, in addition to this, the power exercised by the head of the province, county, town or district—who is almost always, to some extent or in some capacity, a State official—means in fact that there is much State control over the proceedings.

In England there is no provision for any general control of this description. Generally speaking, resolutions of local authorities other than financial, need no sanction. There are, however, requirements under certain Acts of Parliament of central approval, as for instance in the case of alterations of area, slum clearances and town planning; by-laws must be confirmed; there is appellate jurisdiction in the case of orders for closing insanitary houses and other matters and even power to act in default of local authorities in some cases; and central departments issue regulations controlling the exercise by local authorities of specified functions.

Further, there are inspectors under the Ministry of Health, the Home Office and other Departments, who are, as it has been said, "the eyes and ears of the central government." This system of inspection, according to a foreign critic (Dr. Redlich) "is the principal function and the distinguishing feature of central administration in England. It is an invention characteristically English, yet characteristically modern, for it is designed to obtain the advantages of efficiency without the incubus of bureaucracy."

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Powers and Duties.

I have left to the last the question of the position of the State in the matter of the extent of the powers and duties of local authorities.

The answer to that question in England is that all power of local authorities is derived from Parliament and that therefore no local authority may do anything for which it is not possible to show that the duty or power to take such action has been expressly conferred by statute.

In most of the European countries the theory is precisely the contrary—it is held that, in addition to the duties which they are obliged to fulfil, local authorities may do anything which they consider to be for the good of the community, provided that it is not expressly forbidden by law. But the many restrictions regarding finance and the existence, as in Germany, of such a system as a local State administration side by side with the local self-governing bodies, encroach in practice very considerably on this theory.

In spite of the theory, therefore, I question whether—except, perhaps, in the case of the German cantons of Switzerland—the local authorities of any European country are, on the balance, as free from State control as those of Great Britain. Whereas it is the case that in several European countries municipalities are free to undertake functions at their own discretion, for which the English authorities need to obtain special Parliamentary powers, in the exercise of the powers and duties which they possess, the English local authorities enjoy a freedom which is not known elsewhere in Europe, with the one exception I have mentioned.

As regards America, an interesting comparison has recently been made by an American writer, Mr. Ernest S. Griffith, who has had the advantage of a close connection with Liverpool University. It is his opinion that "British city government is quite highly centralized, while American cities are substantially autonomous"; that the latter "are now relatively free in their powers of charter-making, due to the waning legislative interference," while "the cities of the United Kingdom are governed in accordance with a uniform, centrally prescribed framework, whose uniformity is tempered by private bills or by provisional orders—also under parliamentary control." The control, he says, "may be summarized in the statement that England has sought to deny her cities the right which American cities are granted—to *make mistakes*."

This view by a detached outsider is, I think, of great interest and there is, undoubtedly, much truth in it, but I think that Mr. Griffith, in spite of his accurate knowledge and discernment, makes too much of the fetters in which our local authorities are bound. And one cannot help saying that, if our system has saved our towns from

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making some of the mistakes which have been made in America, perhaps this is no bad thing. It is not for me to attack the American system, but I have not yet read any American writer who wholeheartedly defended it. The institution of city manager seems to be a desperate attempt to escape from evils which are, happily, unknown to us. Unrestricted liberty, even if it were attainable, might not work out well in practice.

The expense of private bill procedure, apart from the restriction of powers which it implies, is certainly an evil. But Mr. Griffith does not, I think, give due recognition to the manner in which, under this system, the powers of local authorities generally are gradually enlarged. Experiments, perhaps under certain checks and precautions, are made by one town and, if these prove successful, the powers in question become eventually introduced into general legislation. Thus, little by little, the sphere of the State in our local administration becomes, in proportion, less and less marked. The enlargement of the staffs of our Government Departments is due, not to an encroachment on the independence of local authorities, but to the immense increase in public administration, both central and local, which is the result of the modern conception of the duties of Government in relation to the community and the individual.

I should like, once more, as a witness against Mr. Griffith, to quote Dr. Redlich. "A study of the Annual Reports," he says, "makes abundantly clear what it is that so entirely distinguishes the English type of centralisation from that of a continental Ministry of the Interior. It is true that in England itself complaints are sometimes heard of a growing tendency to bureaucracy; that is due to the extreme sensitiveness which every Englishman feels as to any usurpation of mandatory power by any Department of Government. But, from the standpoint of continental administration, these alleged tendencies are trifling; and the central administration of England has, as its peculiar mark, a half scientific, half statistical character. The relations of local to central government resemble those of fellow-workmen engaged in a similar task."

It is true that these words were written some thirty years ago, but it is worthy of note that, in one of the latest Government circulars issued, it is stated that "the principle underlying the Local Government Act, 1929, is that local authorities should have as much freedom as possible in administering the health services." Indeed, I do not think that anything which has happened since Dr. Redlich's work appeared affects the basic truth of his estimate of the principles on which our system works.

Notes

THE FINANCIAL ASPECT OF EDUCATIONAL ADMINISTRATION IN CANADA.

In Canada the distribution of financial responsibility for education differs considerably from that which is familiar to people in England. Toronto, for instance, is almost a self-supporting educational authority. The taxpayers of the city pay 95 per cent. of the educational tax bill of the city, the other 5 per cent. representing subsidies from the Provincial Government.

We have in Toronto about 117,000 pupils in our 125 schools and these schools have cost us roughly thirty-three millions of dollars. For each of the last ten years we have spent over one and a-half million dollars in providing new school accommodation and have not as yet caught up with the demand. Our total education budget this year amounts to considerably over thirteen million dollars. In 1921 our Provincial Legislature put into operation an Act demanding that all children attend school until sixteen years of age, raising the leaving age from fourteen years to sixteen. The situation in Toronto is not exceptional, as in a greater or lesser degree the same system prevails throughout the Dominion. In these circumstances the necessity of keeping expenditure within the limits of the civic purse has meant an incessant analysis of costs in an endeavour to make the most of our resources. Fortunately in 1917 and 1918 our local Board installed a modern system of accounting procedure, including an efficient cost accounting system, which has been a wonderful boon to us in our difficulties, and in 1920 our administrative machinery was reorganized and put on a modern basis to further improve the situation. The following are some of the economies effected:—

The fire insurance record was examined back to 1900 and found to be very good. A reduction in the price of insurance was then secured and the rate now averages 47 cents (.47c.) per hundred dollars (\$100.00) for the three-year term.

School supplies were checked up and \$20,000.00 a year is now being saved by a tightening up in the distribution.

Research showed that in quite a number of classrooms a few years ago there were many vacant seats. Consolidation of classes was adopted as a policy in 1927 and the city is getting along with sixty (60) fewer teachers and saving seventy-five thousand dollars (\$75,000.00) annually by this step.

Notes

Calculation of " Per Pupil " costs enabled the Board to charge proper rates for non-resident pupils. At one school 90 per cent. of the pupils were non-residents, and it was found that the city was getting \$35,000.00 from them in fees, while at the same time it was costing \$100,000.00 to operate the school, so the school was sold to the trustee board in that area.

By a readjustment which provided for the letting of more school building contracts in the Fall and Winter months, when costs of construction are lower, it is estimated our Board will save each year \$90,000.00 on a building programme of about \$1,500,000.00. This change also helps to provide work in the winter months when unemployment conditions are at their worst.

By using concrete instead of planking for schoolyard repairs the cost of this repair work has been reduced from \$20,000.00 in 1921 to \$2,000.00 in 1929.

It was also found that old-time building methods took too much space for school corridors and only 45 per cent. of the cubic content of a school was in classroom accommodation. This was changed and corridor space cut down to 30 per cent. On a twenty-four (24) room school the old style of construction would have made the cost \$247,000.00 and the actual cost by the new way was \$195,000.00.

A saving of \$15,000.00 was effected last year by prompt payment of accounts, picking up cash discounts and organizing the financial machinery of the Board.

One of our most pressing questions, in my humble opinion, is the increase in our debt charges for school accommodation. I am a firm believer in a " Pay as you go policy," I feel it is the only sound policy for a far-sighted financial administrator to pursue. When, however, you have been operating all through the years on a Capitalisation System it would be utter folly to move over to the " Pay as you go policy " immediately, but I am convinced that some modified plan can be worked out to give alleviation to these liabilities.

This is serious with us, as you will realize when I tell you that in 1911 our Debt Charge amounted to \$234,027.00, whereas in 1930 the comparative figure for our interest and debt redemption charge combined totals \$1,686,212.91, or over seven times our bill of nineteen (19) years ago. Debt Charges are getting now to the point where we will have to increase taxation, as they are cutting into our operating budget excessively.

In January, 1926, I wrote a report to our Board on this Debt Charge question showing what the ultimate effect would be of the continuance of the present capitalisation method, and what the result would be if the Board included \$1,000,000.00 per year in each year's

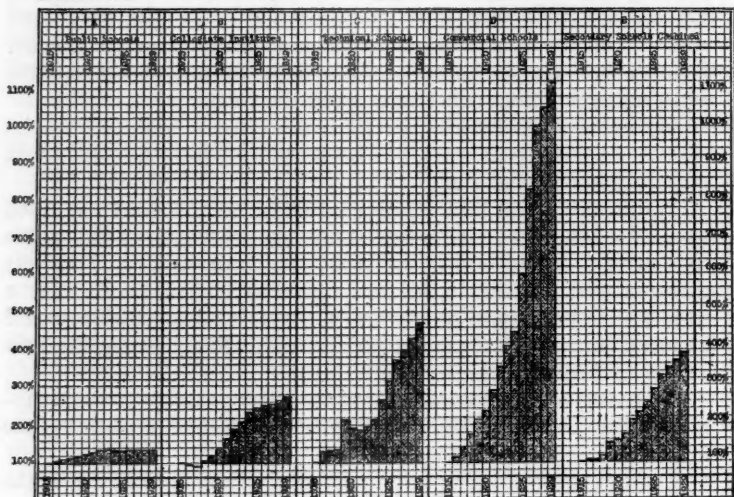
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budget on a "Pay as you go" principle. I also showed just what the situation would be if that same \$1,000,000.00 annually was capitalised throughout the same thirty (30) years.

TORONTO BOARD OF EDUCATION
CHART RE ATTENDANCE OF PUPILS IN TORONTO'S SCHOOLS
June 30th, 1930.

Chart depicts increase in Attendance in various types of Schools transposed to a percentage basis, from 1915 to 1929. The Actual Attendance figures for first and last years are:-

	A	B	C	D	E
	Public Schools	Coll. Inst.	Technical	Commercial	Secondary All Combined
Attendance in 1915	57,704	3,257	1,015	277	4,880
Attendance in 1929	79,617	9,005	4,901	4,216	10,074



The result of the two methods was shown, after approximately fourteen years the capitalisation plan creates and continues a higher tax demand than the "pay as you go" plan. At the end of the thirty-year period there still remains an unpaid debt of \$14,500,000. The debt charge on this unsettled liability continues for the following thirty years.

N. H. BILBROUGH,
*Chief Accountant and Statistician,
Board of Education, Toronto.*

Summer Conference, 1930

How to Fill Higher Posts: Appointments from Without or Promotions from Within?

By Sir WILLIAM HART, O.B.E.

[Paper discussed at Summer Conference, 1930]

THE subject assigned to me has severe limitations—it affects directly a comparatively small number of persons and it only concerns itself with one aspect of their possible promotion to higher office.

In my perplexity as to how I should treat the subject I remembered that a distinguished French author, when giving lectures in Cambridge two years ago confessed that, following the example of an illustrious predecessor, he did not propose to observe strictly the conditions laid down for the subject of his lectures, but would follow the example of indiscipline given him. In his case a brilliant series of lectures entirely justified his insubordination. I am tempted to ask whether conduct justifiable when genius is concerned may be excused when imitated by the plodding pedestrian.

I might, for example, adopt the role of the late Samuel Smiles and urge the juniors in the Service, who receive (and despise) so much gratuitous advice, to qualify themselves for promotion, reminding them that the heights by great men sought and kept were not attained by sudden flight, but they, while their companions slept, were toiling upward in the night. (By which I suppose we are to infer that, sleep at some time or other being necessary, they indulged in it during office hours as is reputed to have been aforetime the fashion in Whitehall.) I might also, with the cordial approval of unsuccessful applicants for higher posts, point out the errors and lack of qualification of those persons or tribunals upon whom is cast the duty of granting promotions, and show what higher qualities they should acquire before they exercise their responsibilities.

I might also discuss the question of promotion, and from what source it should come. There is high authority for the statement that

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promotion comes neither from the east nor from the west, nor from the south. That the Psalmist did not also exclude the north may be due to rhetorical promptings—at any rate to questions beyond my competence to explain. I can only assume that geographical grounds for appointment or promotion to high positions have no sanction in Holy Writ, otherwise I should have taken comfort from the implication that the men from the north are most worthy of promotion.

Other possibilities occur to me, but I come back every time to the chilling idea that a comfortable perambulation all round the subject will not pass muster. I feel that I am being set to answer a question in an examination paper and that unless I keep fairly within the narrow circle it encloses I shall lose marks.

There is another and a serious observation that I may offer. It is that the subject assigned to me is saved from unimportance by reason of its relation to the recruitment of the staffs of the public services.

The other day I was told, without seeking the information, that I ought to be glad I was engaged in a sheltered occupation. What concerns me and is illustrated by this incident is that there are so many who assume that positions in the public service are sought and retained because the holders are saved from the risks and worries of business life—that in fact they are seeking shelter.

In these days, when the scope of public service is being daily extended and the numbers of staffs are increased thereby, the public service will no doubt offer attractions to men of moderate ability and little ambition who would rather be safe than successful. It would be unfortunate if this class were too numerous in the service. The complexity and far-reaching extent of the duties of the public service call and will continue to call for men of rare ability and leadership. For men of the highest type of ability business concerns, even in these impoverished days, are prepared to pay high salaries and to offer many tempting baits. It would be unfortunate if only men of moderate attainments were left for the public service. It should be made attractive to a high-class entrant—one who is not dominated solely or chiefly by questions of salary and service conditions, nor does a remote possibility of honours to come stir his feverish ambition. He wants opportunity to show his ability, to influence for good the concerns of the State or the locality which he serves, and one of the questions that greatly interests him is the prospect of promotion within a reasonably early time so that he may show the strength that is within him and render effective service before his sun goes down.

It is with such men in mind that I assume the subject of my paper

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is entrusted to me. The ordinary routine-minded officer is not within its scope.

I do not forget that it is sometimes urged that the better organised the staff in a state or local government department becomes, the more difficult it is for the man of ability to find scope for his powers. Grading has a tendency to lessen essential differences of quality, and superannuation provisions are apt to curtail the effective service of the more proficient. The general good is not helpful to the exceptional and strenuous officer.

There may be a measure of truth in this complaint, but it is too late in the day to treat it as involving a practical point. Happily merit has a way of finding promotion even though for a time it may have to endure the scorns which patient merit of the unworthy takes. Further, the increasing variety and extent of the duties of the service, to which I have already alluded, opens out new avenues for promotion. In a large local government office, with its annual increments of responsibility imposed by Parliament, opportunities arise. In the great State departments with their thousands of officers, it may be assumed that there are still more openings for advancement.

I have asked myself whether the conditions that prevailed during the War throw any light on our subject. In those dark days the changes of personnel in old and new Ministries and in local areas were many and sometimes startling. Men came to the front from comparatively small positions, and in departments other than those in which they had been trained. The demands made by the fighting forces were not made good by the incursion of business-trained men. On the whole I think it may be stated that the experience of the War showed that men trained in departments generally considered exclusive showed great adaptability and undertook successfully all manner of new duties.

To this extent appointment from without was amply justified in many though not in all cases. Beyond this it would not be prudent to draw inferences from the exceptional conditions of War time.

The first consideration in filling higher posts should be the efficiency of the service. Appointment to high positions does not permit of rash or idle experiments. The service of a relatively inefficient officer may not be such as to justify his dismissal or reduction in status, but his appointment may keep back for twenty years or more the full attainment of the standard that the office ought to enjoy.

It follows that it is of great importance that there should be a general sense of the fairness of the appointing tribunal. Justice is not a quality that is so often dispensed as is imagined. In our Law Courts the best that can often be said is that by their decisions there is an end of the particular litigation. The power of wise selection,

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or a nice discrimination in questions of capability and character, is not easily acquired. The issues I am considering may not be so serious as sometimes are those that the Law disposes of. They are, however, astute to affect the life story of worthy men, and it must save undeserved bitterness if a disappointed applicant is satisfied that at any rate the adjudicator can be trusted to have exercised an unbiassed as well as a competent judgment.

I must not spend time on the qualities upon which discrimination should be exercised. To some extent earlier training may be taken into account—to a much larger extent the service given in more recent days. Sound judgment, quickness of despatch, capacity to advise, adaptability to circumstance, tactful handling of men, the ability to hear everything and say nothing, are qualities to be sought for. These may be found within or outside the department in which the present vacancy exists, and in the majority of cases the fitness of the candidate will outweigh the mere question as to where he is at present located.

It is often an advantage that a department has characteristics of its own. Some years ago I had the opportunity of noticing differences of architecture at Port Sunlight. Each house has its own style of chimneys, windows, doors and even knockers, yet the general scheme of architecture was the same. Similarly, variety in unity may be useful in public offices. The influence of the head, his ways, and sometimes to an extent his mannerisms, are reflected in the day-to-day activities of his department. These are often pleasing, while at the same time the stabilisation of the various services prevails at large.

There are no doubt other and worthier differences. The quiet and leisurely methods of one office contrast with the forceful energy of another, the ready adoption of new aids to efficiency with the cautious conservatism of another. The larger the department the less these differences are seen. But in many instances they may be not unimportant.

It would be interesting to know, if knowledge were possible, how far down the staff the personal as distinguished from the official influence of the chief extends. The office porter may be expected to feel it, but do the junior clerks who seldom see him or are spoken to by him? But this thought I must not pursue.

The value of training in the department has therefore many advantages. It is quite true that no man should attempt to know all the details of the work in his department—indeed in most cases such an attempt would be futile. The many details that are necessary even in a comparatively small department are quite impossible for one man to master, and I have sympathy with the view some-

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times expressed that an employer or the head of a department ought not to know the details of his business—it is better for him and for the business that he should know to whom he can apply in his department with the certainty that he will at once obtain any information that may be wanted, while his mind is kept clear for directive effort. One of the difficulties of to-day is to know how much to delegate to others without losing general control of the undertaking, but there is much to commend the value of early and prolonged association with the department, although this is not decisive. From this point of view promotion as against appointment from outside has many claims. There is also, and this is an important point, the attitude of the staff with respect to promotion to chief positions. In my experience the staff usually prefer to see promotion from among the seniors in their department rather than the selection of an outsider. There is a natural pride in the office and it is creditable that this feeling exists. It has incidental advantages, in that it leads to other promotions lower down the ranks, and it encourages the feeling of solidarity—the idea that the department is a unit has its agreeable side. It is pleasant to find that out of their own ranks the selection has been made. Possibly also they may feel it is better to endure the evils that are known than to risk those that are unknown.

The answer to the question may vary to some degree as between the Civil Service and the Local Government Service. To a large extent the Civil Service is stabilised—it is under one employment and there is necessarily frequent communication between the different Government Departments. Questions of entry into the service have long been settled and superannuation and other rights have been established. The Local Government Service is backward in this respect, but it is undoubtedly approximating in many respects to the Civil Service as regards conditions of service. Superannuation rights are becoming more frequent and there is a growing demand that entry into the service shall only be permitted after suitable tests of capacity have been overcome. In this way the method of entry by favour which, to a limited extent has prevailed in the past, is being steadily overcome.

One may say that generally positions becoming vacant in the higher ranks of the Local Government Service are filled by appointment after open competition. In this way the tendency to stereotyped methods is overcome, and an incentive is given to able men to seek promotion elsewhere. Any other rule would mean very often that promising juniors might have to wait for long years before securing promotion to which their talents entitle them. It is a great pity when youthful ability and enterprise are checked for want of suitable opportunity of advancement, their minds are fresher and in many

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of the professions they are more up to date, and it is a misfortune if opportunity dallies too long and the freshness and energy of their natures have been spoiled.

The system of advertising vacant posts usually brings into competition a fair number of suitable men. It is unfortunate that even yet, although canvassing is stated to be prohibited, a good deal of quiet influence is still exercised and the practice continues, but the short list system neutralises any tendency to over-pressure and enables the men on the list to secure a fair consideration of their suitability for the post.

There are, of course, men who on such occasions fail to show to the best advantage and the showy candidate sometimes succeeds as against his more able competitor, but that is the responsibility of the tribunal of selection.

On the question of public selection it may also be pointed out that the local applicant has often certain advantages—he is known and has friends amongst the authority he has been serving. His work in a less responsible post has usually been satisfactory, and it does not always occur to the selecting tribunal that whereas the work in a less responsible post has been done well and satisfactorily there are often advantages to be secured by the introduction of fresh ideas. Changes brought about by an officer endowed with newer ways have often transformed a department and given it a new impulse and a new direction. This applies especially to departments where developments are more readily made than in the older departments. It is not easy to introduce rationalisation, whatever that term may mean, into (say) a town clerk's department, whereas up-to-date business ideas may be more readily introduced into trading departments where new business methods are generally being introduced, and also into engineering and constructional departments where new scientific advances are possible of introduction, and are urgently needed.

I have no experience and little knowledge of the procedure under which appointments in the Civil Service are affected or of the principles upon which such appointments are based. Many excellent appointments known to me indicate that careful discrimination is exercised. Some of them have been by way of promotion, others by transfer.

It is impossible to dogmatise, but one the whole my preference is for the wider area of selection. In relation to trading departments, which now form such important branches of local government service, this method might almost always be employed. It may be that the applicant who has been brought up in the department is the best man, and in that case his selection will give the greater satisfaction to those who appoint him. And in departments devoted more strictly to

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governmental duties staleness and routine are much to be deprecated. A judicious appointment from outside usually brings fresh ideas and the benefit of varied experience. It stirs the thoughts and aspirations of the junior staff. It reacts upon related departments of the service. It tends to enhance the attractiveness of the service to desirable entrants. The issues are too important to permit any but the best being appointed. New occasions bring new duties. The need is for the men who will master and not follow the new duties, and the net should be spread as widely as possible to catch them. And yet—one is glad when, after trial made, the man trained in one's own department is found to be the most worthy of the coveted appointment, whatever it be.

The Right Relationship between the Official and his Council and their Respective Functions

By R. H. JERMAN

IT is difficult in a few words to deal with a subject which, obviously, not only contains many points of controversy, but is one concerning which it is almost impossible to outline general principles. I would have preferred that the title of the paper to be read should have referred to the officer and not to the official, because it is in the interpretation of the word "official" that so much difficulty and misunderstanding arises.

It has long been understood that the duty of a Council is to determine policy, and, once that policy has been determined, for the officer to apply it. In practice, however, it requires considerable skill to define where policy ends and administering it starts. This is the problem which the officer must face and is one which grows harder as new legislation throws upon the officer greater responsibilities.

Perhaps the greatest trouble which the local government officer has to meet in modern days is that political interest is entering into local government affairs to a much greater degree than was formerly the case, making it difficult for an officer to put forward suggestions which would seem entirely free from political bias and without interfering with the views of the majority party, obviously always the deciding factor in decisions of policy. So responsible are becoming the duties of chief officers of local government authorities to-day that to a great extent their work is becoming one of co-ordination.

The periodical Council meetings which decide the policy which the officer is asked to apply are not occasions when an officer is able,

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either by personal influence or advice, to guide decisions into a direction which enables him to perform his duties with due regard to the law and to the best interests of the authority he is serving, for the reason that, with the public present, these are occasions when matters which should require important debate are passed often without comment and matters of trivial importance exploited with a view of furthering either political ideals or with similar motives. It is, therefore, in the privacy of the Committee that the officer has the real opportunity of gauging the temper of his Councillors and of measuring the extent to which his advice is required, and is, in fact, needed.

Not long ago in the local government press an article appeared, concerning the attitude an officer should adopt when he found that a Committee, or following the report from that Committee, his Council, had determined to pursue a policy which in his opinion was not in the interests of the ratepayers. When pursuing a matter of this difficult character it is surely advisable to realise that the right relationship between the officer and his Council is primarily that of employee and employer. Every officer of the Council, whatever he may consider his statutory responsibilities, is acting under the directions of his Council, who, as the elected representatives of the ratepayers, are entitled surely to determine the lines on which the Council shall work and make decisions, provided they comply with legal requirements, in that they take the responsibility.

Colleagues of mine have often stated openly that courage and personality on the part of public officials is needed; also that they should take every opportunity of expressing their own opinion and views on current questions. Very true indeed is this, but the application of these excellent ideals is harder. Whatever may be the personal opinion of an officer, provided the decisions of his Council comply with legal requirements, however unpopular they may prove to be, it is no concern of the officer, I think. His duty is to guide his employers within the range of the law, and even to find, if possible, every loophole to enable his employers to pursue their policy, whatever may be the consequences. Councils to-day are comprised of men, for the most part, who are determined to secure for the ratepayers the best administration at the lowest cost and without undue influence or interference of officials.

On the other hand, a wise Council will seek the advice of their officers on every matter on which their wide knowledge and experience may prove useful, in order that pitfalls may be avoided and sound administration secured. There is no problem which cannot be approached from several angles, and it is true to say that even an official may err sometimes in considering one line of policy more

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satisfactory than another. The path of the official is a difficult one, and the only way in which an official can secure the right relationship is by being strictly fair and independent, giving every party or section, in his own mind, the right to consider as beneficial any course of action which complies with the law and with such regulations as the Council may, in its wisdom, set out for the good government of its district. It is hard for some of us to appreciate it at times, but confidence between the employer and employee can only be secured by its being mutual. A wise Council seeks advice when it needs it, and the ability to determine, on any point, the dividing line between policy and administration is the qualification which secures success or failure in local government affairs to the local government officer as a sound administrator.

It has been said that the best university of the world is that of "hard knocks." The local government officer has certainly to make himself able to receive them easily.

Promotion in the Civil Service

[Speech delivered at the Summer Conference of the Institute of Public Administration, New College, Oxford, July, 1930]

By A. L. GORDON MACKAY, University of Adelaide

IN South Australia, until comparatively recently, members of its Civil Service were recruited in their teens and were promoted by seniority when the occasion offered. About the time of the conclusion of the war there came to be considerable dissatisfaction with this state of affairs; the method of recruitment was unsatisfactory, there was practically no training or education after selection and promotion by seniority never did appeal to the younger men who were endowed with ability.

In the twelve years, that have succeeded the war, considerable improvements have been effected and, as these are illustrative of the way in which many difficulties in other Civil and Municipal Services will have to be faced, some brief account of the struggle for efficiency in South Australia may not be wholly without interest to the members of the Institute in their efforts to make of the Civil Service, generally, a profession.

The main changes were of a three-fold character. (a) Some attempt was made to reshuffle both the positions and the men in them. (b) The principle of efficiency took the place of seniority in promo-

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tion. (c) There is to be training and education of members of the Service *after* selection.

The new state of affairs is still open to certain objections—some of which we can consider in a moment—but, on the whole, it represents a marked improvement. Let us consider each of the changes in turn.

The reshuffling of the positions, and of the men in them, was done by a Classification and Efficiency Board, consisting of the Public Service Commissioner and two others—one of whom was appointed on the advice of the officers in the Civil Service. Every member of the Civil Service was allowed to appear, with an adviser, before the Board and to ask to have both the post, which he occupied, and the salary, which it carried, reviewed. The advice of officers in this connection was not, necessarily, followed, but it was very seriously considered. The general result was an alteration in the status of many of the posts and an improvement in the conditions of officers. But there was this further advantage; as the result of the inquiry, the Board came into the possession of an enormous amount of information about the ability and the qualifications of the officers and there is no doubt that it did its best to apportion that ability among the various posts in the light of the information that it received.

The next step was to substitute promotion by efficiency for promotion by seniority. For this purpose the Service was divided into two parts which may be facetiously described as (a) those who were "past praying for" and (b) those that were not. It was realised that there was a certain proportion of the Service which was too old to begin the business of learning and too "set" in its ideas to be altered or improved and, it must be admitted, that this body of men contained some very able men. But it was realised that these men would soon pass out of the Service. But for those who were not "past praying for," efficiency was to be the test of promotion. These officers were informed that they could not pass a certain salary level unless they had reached a certain standard of fitness in education and in the performance of their routine duties—preparation for which standard of fitness would occupy several years. This applied, of course to the clerical division; technical officers had other and special requirements to meet.

To require from men, after they have been selected to serve the State, some standard of fitness, which they must satisfy before they can pass on to higher promotion, means that the principle of education and training after selection has been adopted. We turn, therefore, to see in what respect this interesting venture has been developed. First, there was founded in South Australia a Regional Group of the Institute of Public Administration made up of a small,

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representative group of senior officials, representatives of the University, of the Press and the political parties; and this body of men became the first Fellows. They at once set up an education committee with a representative of the University in the chair. This committee went diligently to work to arrange courses of lectures for the Service and the Council of the Group, with the aid of the Civil Service Association, soon built up what is now the strongest library of works on Public Administration in Australia. Secondly, the Institute "looked out" a likely body of young men of a certain standard of ability and of the right type of personality and these men became the Associates of the Institute. The University was prevailed upon to take these men and start them off on a three years' course of education, leading to a Diploma, and there is little doubt that, if the experiment works out well, there will eventually be a degree. Thirdly, there was appointed by the Government an Education Officer, charged with the task of conducting the routine education of the Service. This gentleman, a graduate of St. Catharine's College, Cambridge, has in front of him a life of very interesting and useful work, provided he is allowed reasonable freedom to develop it.

The whole scheme is a very interesting one and indicates that there is a willingness, in all concerned, to improve the Service. But at present the scheme would appear to contain four defects. I mention these with some reluctance since I am absent from my native land and away from any Civil Service friends who are responsible for the scheme. But the criticism is not carping and it is only done with a good intention and in the interests of scholarship. The first criticism was mentioned to me by a very high authority in the British Civil Service, who visited Australia at the invitation of the Federal Government, and who has, himself, recruited at least one Civil Service organisation in the British Commonwealth of Nations. He says that with the very best intentions in the world a second-rate system of recruitment, training and promotion has been deliberately chosen. In exempting the members of the Service who are "past praying for" from training and in not requiring recruitment at each separate level of ability, the scheme represents a surrender to the "vested interests" of the Civil Service and to the democratic enthusiasm of a young country which is inexperienced in Civil Service matters. The same authority is also responsible for the second criticism to the effect that in expecting young men to undergo an exacting training, of a routine and academic character, after hours and in their own time, is throwing a strain on their mental and physical strength which they will not be able to bear without serious loss of vitality. It will mean that neither the day's work nor the education and training will be done thoroughly. It would be far better to set men free from

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their day's work in order to undergo education and training or to educate and train them before bringing them into the Service. With both of these criticisms I agree and I go on to add two more. Third, as far as I know, there is no man in the South Australian Civil Service, or in any Australian Civil Service, that reaches the standard of the British First Division man. There are a reasonable number up to the standard of the British Second Division. Moreover, there does not appear to be any chance of ever producing a British First Division standard as long as the Service is recruited as it is, both in regard to age and ability. To hand over men of this standard to the University and to the Education Officer is asking that the method of polishing diamonds should be applied to the polishing of pebbles. Such an effort will only spend itself in the polishing of the pebbles and in the dulling of what diamonds there may be among the pebbles. It would be far better to comb out the diamonds and train them or, better still, to push up both the age of recruitment and the standard.

Fourth, there is some reason for thinking that the progress of the general scheme is going to be made to depend on the amount of money available for paying salaries. All things considered, notwithstanding some recent improvement, the standard of Civil Service pay is still rather low. There is a fear in the mind of the authorities that, if the Service is educated too much, it will want higher pay, and this eventuality the State does not yet appear to be prepared to face. Therefore, the attitude of the State is that the training scheme should only be allowed to hasten slowly. The men in the Service feel the influence of this official view, which is known to exist but is not expressed, and, naturally, this realisation will have unfortunate effects.

I conclude by setting out what my study of the recruiting and training of five Civil Services has suggested to me should be the essentials of any system of promotion. There is no need to have stereotyped ways of carrying out these principles but, it would appear, that no system of promotion is complete without them. They are five in number.

- (a) The pay, conditions and *social prestige* of any Civil Service should attract a reasonable number of "diamonds" in any community.
- (b) The doors of entrance to any Civil Service should be kept open long enough to enable men, who are undergoing a University education, to be recruited when that education is finished.
- (c) Whatever ability you may have in your Civil Service and however it is graded, there should be the very fullest provision for enabling the "diamonds" to go to the top.

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- (d) Owing to the fact that, so the science of psychology informs us, mental ability either comes into its prime just after the age of forty or begins to decline then—a full period of ten years, prior to this, is required in which a man can be tested out and receive his experience. This suggests that any men with ability in a Civil Service should, by the age of thirty, be loaded with considerable responsibility. A mind that cannot assume responsibility under the age of thirty will never be able to take it.
- (e) Notwithstanding what has been said about the age of forty, that age is also peculiarly susceptible to certain forms of mental decrepitude against which there must be safeguards. After forty the type of responsibility that a man will be called upon to bear, the ordinary vicissitudes of life in an administrative service and the chemistry and physics of the body, all tend to “sap” the energy of the mind, to make it lose its resilience and its mobility. There is also a tendency for the genial enthusiasm of youth to give way to taciturnity. All these influences militate against administrative efficiency and the maintenance of an “esprit de corps.” There is only one safeguard against the development of this form of premature middle-aged senility. That safeguard is the possession of a mind which is steeped in the resources of a deep and abiding culture, reinforced by a philosophical outlook, the keynote of which is contentment. And it is desirable that the humanistic training, that produces this type of mind, should be of as high a standard and as long continued as it is possible for it to be. No man in a great Civil Service should reach both the age of forty and a responsible post unless he possesses these qualities of mind. And in recruiting young men for a Service and in pushing them up as far as possible before they are thirty—this vital quality—the possession of a mind that is for ever young, which possesses “air cushions” and “spring”—should not only never be overlooked but should be given pride of place.

To what extent it is going to be possible to apply these principles to the Democratic Civil Services of the Dominions, I do not know; to what extent they can be applied to the municipal services of the older countries, I should not care to say. But I do think that South Australia with its scheme, whatever its faults, has produced a very praiseworthy attempt to convert an unsatisfactory state of affairs into one that is better—even if it is not yet the best. And there is reason to think that she and her sister States have not yet made an end of well doing. The growing responsibilities of Australia in the

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Pacific and in the British Commonwealth of Nations and the period of economic depression through which she is passing, is bound to cause her people to do some hard thinking. To do hard thinking requires trained thinkers and these do not grow on every bush nor are they produced in a day. So that we may confidently expect that for the "diamond-minded" people there is a good day coming. And the meaning for the Civil Service is: that when a community begins to search carefully for its "diamonds" to give it some sense of a new direction, that influence very soon spreads to the Civil Service.

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[Remarks of Clinton Rogers Woodruff before the Institute of Public Administration, Oxford, July, 1930]

DIFFERENCE in English and American terminology makes it somewhat difficult to discuss a topic such as is under consideration this morning. The other day Mrs. Woodruff and I were going out to Croydon and we asked the guard at the station which was the next train for that place. He told us it was the "top train." As we saw only one train we were at a loss to know just what he meant. A few minutes later, however, another train backed in and the guard told us that that was the "top train." In America we would have called it the "forward train." Again, yesterday afternoon we were going out to take tea with the Master of University College and the taxi driver dropped us at what looked very much like a back way. He told us, however, that the "Master's Lodging" was up that passageway. As we proceeded we saw a door which was labelled "Back door to the Master's Lodging." We felt sure then we were going in the back way, but kept on and about ten feet further we came across the *front* door of the Master's Lodging!

These remarks are apropos of the different sense in which the phrase "civil service" is used in England and America. Here it related to civil service in the national government. You speak of your municipal service as the local government service, whereas in America the "Civil Service" includes all public employees, whether in the federal, state, municipal or other local service.

I shall try to bear these distinctions in mind in what remarks I may have to make and speak accordingly. Perhaps my most helpful contribution to the discussion will lie in the direction of speaking of the Philadelphia civil, or local government, service. Under the Charter of the City passed by the Legislature of Pennsylvania in 1919, we have a competitive civil service established which is on the whole

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working out very well indeed. The head of a department, his chief assistant and one secretary or clerk are exempt from the provisions of the Act. For all the other employees in the civil service of the city the Commission prepares what are known as competitive examinations and appointments to vacancies or to new positions must be made from the first two names on that list. The Civil Service Commission which administers the law, however, has the right to make exemptions, that is to provide for appointments without competitive examinations where such examinations are found to be impracticable, but such exemptions can be granted only after a public hearing of which suitable public notice has been given and the Commission must determine that it is unable to obtain by competitive examination persons possessing the usual and requisite qualifications for filling such office or position. To illustrate locally, the Council of Philadelphia recently created the office of Traffic Commissioner. Now there are very few traffic commissioners in America, in fact only two or three, and the man who was recommended by the Director of Public Safety was exempted because it was felt that a competitive examination would not result in a competitive examination for the position. The man who was chosen by the Director had to be persuaded to accept the place. He was in no sense an applicant. This power to exempt certain positions and the probation period of ninety days during which dismissals may be made without cause, gives the Philadelphia Civil Service law an elasticity that experience has shown to be most valuable.

As we use it, the phrase "within and without" usually has a geographical signification rather than a service one. In many instances promotion examinations are thrown open to those without the city and those without the service, as well as those within. That is a matter within the discretion of the Commission.

I am very sorry that Sir William Hart is not here to defend his paper. From what I have heard of it and from the more or less critical remarks that have been directed against it in his absence, I feel that I am more or less in sympathy with his contentions, at least so far as I understand them.

May I be permitted to say that I do not see any incongruity in speaking of a person being "a good man for the job, but not a good administrator." Many times a department or bureau head is a good *liaison* officer and is effective in determining policies and establishing contracts; yet he may not be a good man for details. In this connection, in Philadelphia at least, and I think the same is true of most other American cities, the chief clerk is the real administrator, that is, the one upon whom dependence is placed for the working out of details and for what we often call "office management."

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The Pragmatic Revolt in Politics

By W. Y. ELLIOTT. (Macmillan). 16s. net.

MR. ELLIOTT'S book is a very well-considered review of recent political theory along with the effects which such theory may plausibly be held to have had on the actual work and methods of government in modern states. Mr. Elliott wisely gives his book a substantial unity by viewing present-day tendencies in political theory and practice in the light of a philosophical doctrine which he holds has mainly determined their character, namely, that of pragmatism. But while the advantages, from the point of view of literary structure, of such a scheme are obvious, no less obvious is the danger which quickly threatens such a scheme, that of tending artificially to represent the great variety of modern political thinking as arising from too single and uniform a source; and of course, at the very outset, Mr. Elliott wisely admits that to try to present the doctrine of Marxist Communism as resulting from a relativistic theory of knowledge is wholly to falsify the facts. Accordingly a discussion of Marxist doctrine finds no place in Mr. Elliott's book. He is exclusively concerned with political doctrine and practice which may fairly be thought to result from the revolt in philosophy against what is called Hegelian or Neo-Hegelian intellectualism. The revolt against Hegelian "intellectualism" was initiated, while yet Bradley and Bosanquet were at the height of their powers, from America, and by William James. It is significant enough that it should come from the new world of America fresh from a superb and swift mastery of a new continent. In addition, we can be sure that no doctrine that issued from the rich and amazing personality of William James is without the germ of deep and fecundating truth. That there is such a truth underlying pragmatism can hardly be doubted, but whether it is one which so-called "intellectualism" forgot to the degree William James imagined is much more open to doubt.

The truth is that terms like "intellectualism" and "anti-intellectualism" need to be very carefully handled; and it is very much open to question whether the so-called "anti-intellectualists" are not more misleading in its use than those they criticise. For if we take Bradley as the greatest representative in the English-speak-

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ing world, of intellectualist Neo-Hegelianism, it is worth pointing out that while no one had a greater confidence in intellectual achievement than he, no one more clearly realised the plain truth that life is a much bigger affair than mere thinking and logic. It has frequently proved the case that our so-called "anti-intellectuals" would have done well to read the noble concluding passage of Bradley's *Logic*. And if we wish to see *real* intellectualism of the most arid kind functioning at its strongest and most dangerous, we must look not to Bradley but to writers of the present day who claim for themselves a contemptuous liberation from the methods of the great thinkers of yesterday. We have only to read the writings of Mr. Bertrand Russell to see the development of a logical atomism which originated with the cry of "back to the facts" but which has ended in a form which may satisfy the intellect of Mr. Russell, but is infinitely beyond acceptance by any living personality. Recent philosophical history has shown over and over again, that the anti-intellectualist reaction has resulted in a more barren and fatally unbalanced view of human nature than that which Bradley was concerned to maintain. And Mr. Elliott, in his present book, acutely points out how, in the field of political theory, the reaction has resulted only in a new statement of the older views, a statement set in a context wholly lacking the safe and cultured insight of the older writers. The truth underlying pragmatism but which pragmatism itself badly expresses is that the intellect is, when all is said, but the servant and instrument of the total, integrated personality. This is true; and no philosopher worthy of the name can ever afford to forget it. Pragmatism has held that Hegelian writers *did* forget it and, on the basis of that prejudice, has set itself its considered avoidance of the high conclusions in which Hegelian thought resulted.

The results, for political theory, of this reaction Mr. Elliott is here concerned to expound and criticise. Naturally, pragmatism allied itself to pluralism, partly out of loyalty to what it considered to be the "facts," partly in order to give itself the pleasure of being in diametrical opposition to the Hegelian tradition. Mr. Elliott has had little difficulty in pointing out, in the course of his critique, that no single political doctrine of our time has been able to maintain its anti-Hegelian concepts intact; and in effect, Mr. Elliott's book is, for political theory, what Bosanquet's little book *The Meeting of Extremes in Contemporary Philosophy* was for philosophy. Syndicalism and guild-socialism are compelled to use the concept of group-personality, and it is impossible then, to stop short of so regarding the total society which we call the state. There is nothing in the theory and practice of Fascism which is not covered and explicated by idealistic doctrine: the difference between the constitutional and

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the fascist state is merely that the general will expresses itself in the latter through an efficient dictatorship instead of through a representative assembly, as in the former. Lastly, a doctrine of pure instrumentalism, which defends unlimited experimentation with the mode and means of government is likely, as Mr. Elliott points out, to be left finally with nothing but a corpse upon which to effect an experimental post-mortem examination.

It is impossible to read a book on political theory without feeling that the facts must be, to make human life tolerable at all, a great deal simpler than the theories about them. The facts, to anyone but a political theorist, appear to be fairly simple: a body of people associated together for their economic and spiritual well-being living within clearly defined governmental and territorial limits. There is, in describing the situation, neither a "block" or featureless state, nor a chaotically assorted number of people. Rather there are individuals in their numberless relations to many other individuals and to a single government in which they all acquiesce. It is impossible to be either a literal monist or a literal pluralist. The only question is whether the monist is not a better pluralist than the pluralist is a monist. And Mr. Elliott is rightly inclined to the view that he is. He stands for what he calls a "co-organic" view of society: he uses the prefix "co-" to indicate that society is pre-eminently a spiritual organism, and that the economic aspect of the structural functioning of the state is but itself matter for the informing spiritual activity of men in society. There is no real objection to the prefix except that the assumption Mr. Elliott makes that "organic" can refer merely to economic adaptation is hardly justifiable. The main point, however, is that Mr. Elliott's book is a sane and well-balanced critique of the conflicting and often chaotic thinking of contemporary life. It is a happy thing for America that it has writers of the quality of Mr. Irving Babbitt and now of Mr. Elliott, who can so sanely and with such insight resist the mighty, delightful, but curiously dangerous influence of William James.

G. J.

The Structure of Politics at the Accession of George III

By L. B. NAMIER. 2 vols., xi+616 pp. (Macmillan & Co. Ltd., 1929.) 30s. net.

MR. NAMIER is about to publish a new volume on English politics at the end of the eighteenth century¹ and it serves a timely purpose to

¹England in the Age of the Revolution.

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review the foundations of his studies in the *Structure of Politics at the Accession of George III*, published in 1929, and universally received with applause.

It is a pleasure for the political scientist to meet such work as Namier's. The science is too apt to be swamped by a flood of works in which that which ought to be, according to the author, blinds both him and his readers to the reason why things are as they are, or were as they were. Mr. Namier's method is different: it is a meticulous, careful, almost mathematical account of reality: a plain exhibition of what politicians did and why they did them. There is no thesis to be supported by exaggerations, but, simply a laboratory study which is to lead wherever the facts ultimately point.

This particular period and subject—the composition of the House of Commons, the nature of the franchise, and the management of elections and Parliament in the middle of the eighteenth century—have, of course, been illuminated in the past by Lecky and Porritt, also by Trevelyan's *Life of Charles James Fox* (though the period there is slightly later) and Veitch's *Genesis of Parliamentary Reform*. Namier has pressed the analysis further than any of these by the combination of two instruments: the talented use of the Newcastle Papers and a remarkable mastery of the local and personal history of the figures with whom he is concerned, and the gift of asking intelligent questions. The questions are: What were the motives for getting into politics, what were the types of franchise, and to what extent was the Government able to "manage" each of the various types, and how was "secret service money" dispensed for the purposes of parliamentary management? And then there are incidental questions. All are answered with great sagacity and complete mastery of the facts. Readers will find a true as well as an amusing account of the social climbers, the placemen and purveyors of favours, the hordes anxious to secure place and promotion in the Army, the Navy and the Civil Service, the merchants and bankers seeking contracts or the handling of Government loans, the robbers, bastards and bankrupts, all of whom converged upon Parliament as the regular agent of their satisfaction. There is no suggestion of public duty as the motive for entrance into politics, the idea that the community might be served. It was the natural thing to plunder the community for the benefit of one's self and friends as the proper reward of attending and voting in the House on occasional matters of high policy.

In that part of the book and mainly from page 47 onwards those employed or interested in public administration will find a field of special interest. They will learn, in picturesque detail, that the idea of Civil Service neutrality and anonymity was not yet conceived,

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excepting by one or two, among thousands of stupid fellows, that Ministers considered the public service to be the divinely dispensed manna with which to sustain their ravenous followers, that the country at large seemed to be craving for official situations and emoluments and prepared to follow anybody, saint or devil, if these were granted. Of course, such a system could only operate where parties were not really parties, but only personal "connexions," and where the State was not required to undertake a positive and wide field of activity necessitating expert technical help in the making of statutes, and administration. The contrast between English public administration of that time with that of Prussia is immense: all of England's ability went into the Parliamentary process and strategy, all of Prussia's went into the creation and maintenance of a skilled, loyal, honest, and zealous bureaucracy.

Namier describes the various types of franchise, and shows how few, and what corrupt means, governed the country. This is all the more interesting in view of the later defences of the "rotten borough" system as one which, though there was no universal representation, was at least a good one because all classes and interests were "virtually" represented. Without specifically setting out to do so Namier shows how class-bigoted that theory was. Yet he says that the House was sensitive to the popular will. I do not think there is any way in which that can be measured: it is difficult enough to make a right judgment on such a matter to-day when party organisation is part and parcel of the constituencies on one side and Parliament on the other. The criteria for the eighteenth century are, surely, altogether lacking. Indeed, other of Namier's dicta contradict this: his judgment, for example, that "power was vested in an electorate not equal to comprehending them (the issues) and in the absence of organised parties, that power was used primarily to satisfy local or mere personal needs." He makes it very clear that there was no party system, although there were party labels and party cant.

Indeed, when Namier steps from the microscopic examination of persons and localities to political interpretations, I am bound to say that he shows considerable weakness of judgment. Let us consider some examples. He says (I, p. 11): "In fact, personality, eloquence, debating-power, prestige, counted for more in the eighteenth-century House of Commons (which at all times contained a certain number of Members whose vote could be turned by the debate) than it does now, unless the 'whips' are taken off, an exceedingly rare event." But the "whips" have nothing to do with it! The real cause of the difference is that to-day the constitution has become *plebiscitary*: the decisions are made by the parties and the electorate,

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the eloquence, to-day, is extra-Parliamentary eloquence, the votes to be turned are not in the divisions in the House, but in divisions in the country. Secondly (I, 24): "In 1706 it was 'faithful service to your country'; in 1760 'service of one's friends.' The community had become atomised and individualised, and *when another half-century had passed* and the idea was proclaimed that the greatest common good is to be reached by every man pursuing his own individual advantage, this was not so much a eulogy of egotism as an apology for an existing practice." This is entirely to miss the nature of the forces and the philosophical tendencies which in the middle of the century produced Montesquieu's *Esprit des Lois*, and, towards the end, the *Wealth of Nations*, and between the two engendered the works of Voltaire, Rousseau and the Physiocrats. Thirdly, but not finally (I, 28): "The conclusion which this analysis of a few of the freest and most important urban constituencies impresses on one's mind is that it was not the state of the franchise alone which about 1760 was responsible for the absence of real 'politics' in elections, and that 'corruption' was not a shower-bath from above, constructed by Walpole, the Pelhams, or George III, but a water-spout springing from the rock of freedom, to meet the demands of the people. Political bullying starts usually from above, the demand for benefits from below; the two between them made eighteenth-century elections." Yes, but politicians are not in the habit of giving the people all that they might demand; why then was there no obstinate rebellion from above against "the demand for benefits" until Burke's time? The generalisation is too facile: it seems to say much, but instead it closes the eyes to the efficient factors in political activity.

Namier shows the whole system in operation in the election of 1761; and in Volume II shows, with special detail and "close-up," conditions in Shropshire, Cornwall, in the Treasury boroughs, and gives a vivid description of a number of "Parliamentary beggars." Altogether an important addition to our knowledge of human nature in politics, and the English variety in particular. We look forward to the next part of the work.

HERMAN FINER.

The Romance of the Civil Service

By SAMUEL MCKECHNIE. With a Foreword by the Rt. Hon. PHILIP SNOWDEN, M.P., (Published by Sampson Low, Marston & Co.) 6s. net.

ALL who are in any way interested in Public Administration will welcome this attractive account of the history and the activities of

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the different branches of the Civil Service. Taking each Department in turn, the author explains its origin in the dim days of the past, traces its development, glances at historical episodes in which it may have played a part, and at prominent figures who have been connected with it, and explains its present function as part of the machinery of Government. The merely curious reader will be interested in the description of various unusual duties carried out by the Service, which range from rescuing shipwrecked crews with the rocket apparatus to training racehorses for the Derby, and from combating anthrax to guarding prehistoric monuments! The more studious will find ample food for thought in the account of the vicissitudes of the Departments, and of their value from the point of view of social service. A number of excellent photographs add greatly to the value of the book. Mr. McKechnie concludes with an account of the semi-official activities, Service Sport and Arts (he is himself the editor of the C.S. Arts Magazine) and with a chapter on the numerous men of letters who have been connected with the Civil Service. In his foreword, the Rt. Hon. Philip Snowden expresses the hope that the book "will create among the general public a new interest in and a greater appreciation of a Service to which every citizen is very deeply indebted."

I. O. E.

The Irish Constitution

By BARRA O'BRIAIN. (Talbot Press. viii, 182.)

THIS is a fair and lucid introduction to a difficult subject. "The Anglo-Irish Treaty (1921) was a compromise and involved concessions by both parties. The concessions made by the British side involved the disruption of the State which had existed since 1801 under the title of the United Kingdom. The Treaty replaced this by two distinct States, one Irish, the other British. In return for this the Treaty preserved the integrity of the community of nations called the British Commonwealth, and provided that Ireland should become a member of that community (p. 59).

The Irish Constitution, which had its genesis in Civil War, was framed by Irishmen for Irish conditions with complete freedom save that nothing in it might conflict with the law and usages involved in membership of the British Commonwealth. The King had to be titular head of the Irish State. But probably in no other State where the titular head is a hereditary King are so many functions of govern-

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ment exercised by an elective body or so many acts done in the name of the *res publica*, as distinct from its titular head (p. 62)." The appeal to the Judicial Committee of the Privy Council was retained, but neither the Irish Executive nor the Irish courts will in fact consider decisions by that body to be binding.

The most serious problem of Irish-British relations is that provided by Clause 7 (6) of the Treaty, which binds Ireland to provide Britain with certain facilities in time of war. Mr. O'Briain argues (p. 79) that these facilities (specified in an annexe to the Treaty) must be limited by the intention of the Treaty as a whole. They must, therefore, not be such as would affect Ireland's right as a Dominion to be committed to the acceptance of active obligations as a belligerent against her will. This is surely too simple a solution. Ireland's right as a dominion not to be committed to the acceptance of active obligations as a belligerent is not a right to neutrality. But the point is a fine one.

On the working of the various experiments of a very experimental constitution, Mr. O'Briain can give as yet little information. The Constitution is young. But he is a clear guide to what is yet known.

K. B. SMELLIE.

